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HANSARD'S PARLIAMENTARY DEBATES:

THIRD SERIES,

COMMENCING WITH THE ACCESSION OF
WILLIAM IV.

19° & 20° VICTORIÆ, 1856.

VOL. CXLIII.

COMPRISING THE PERIOD FROM
THE THIRTIETH DAY OF JUNE, 1856,
TO
THE TWENTY-NINTH DAY OF JULY, 1856.

Fourth and last Volume of the Session.

LONDON:

PUBLISHED BY CORNELIUS BUCK,
AT THE OFFICE FOR HANSARD'S PARLIAMENTARY DEBATES,
23, PATERNOSTER ROW; [E.C.]

AND BY

LONGMAN AND CO.; J. RIDGWAY; HATCHARD AND SON; J. BOOTH; C. DOLMAN;
J. BAIN; W. DALTON; SMITH, ELDER, AND CO; RICHARDSON, BROTHERS;
UPHAM AND BEET; AND J. ALLEN AND CO.

1856.

J
301
H 21
2nd ser.
v. 143

LONDON:
WOODFALL AND KINDEL, PRINTERS,
ANGEL COURT, SKINNER STREET.

TABLE OF CONTENTS

TO

VOLUME CXLIII.

THIRD SERIES.

- I. SUBJECTS OF DEBATE IN THE HOUSE OF LORDS.
- II. SUBJECTS OF DEBATE IN THE HOUSE OF COMMONS.
- III. PROTESTS.
- IV. NEW MEMBERS SWORN.

I. SUBJECTS OF DEBATE IN THE HOUSE OF LORDS.

MONDAY, JUNE 30.		<i>Page</i>
Affairs of Italy—Question of Lord Lyndhurst	...	1
Oath of Abjuration Amendment Bill—Order for Third Reading on Thursday next <i>discharged</i> —Bill <i>withdrawn</i>	...	4
The East India Company—Voluntary Payments—Question of the Marquess of Clanricarde	...	7
Annuities Redemption Bill—Third Reading <i>put off</i> to Thursday next	...	11
TUESDAY, JULY 1.		
Burial Acts Amendment Bill—Order read for the Second Reading—Amendment of the Archbishop of Canterbury that the Bill be referred to a Select Committee—Motion, as amended, <i>agreed to</i> —Bill <i>withdrawn</i>	...	110
Expenses of Scotch and Irish Peers—Motion of the Earl of Donoughmore for a Select Committee—Motion <i>agreed to</i>	...	111
THURSDAY, JULY 3.		
Reformatory and Industrial Schools Bill—Bill read 3 ^a —Additional clause moved by the Bishop of Oxford, <i>agreed to</i> by a Majority of 36—Bill <i>passed</i>	...	229
Divorce and Matrimonial Causes Bill—Amendments <i>reported</i> —Other Amendments made—Bill to be read a third time <i>To-morrow</i>	...	230
FRIDAY, JULY 4.		
Legislative Council of India—Presentation of Petition by the Earl of Albemarle	...	306
The Chimney Sweepers Act—Presentation of Petition by the Earl of Shaftesbury	...	307
Divorce and Matrimonial Causes Bill—Bill read 3 ^a	...	308
Cambridge University Bill—House in Committee	...	309

TABLE OF CONTENTS.

	<i>Page</i>
MONDAY, JULY 7.	
Nawab of Surat Treaty Bill—Motion of the Marquess of Clanricarde that the Bill be now read a second time—Amendment of Lord Redesdale that the Bill be read a second time this day three months—Amendment <i>agreed to</i> —Bill to be read a second time this day <i>Three Months</i> ...	383
Convocation— <i>Presentation</i> of Petition by Lord Redesdale ...	397
TUESDAY, JULY 8.	
The Crimean Board of Inquiry—Report of the Commissioners—Question of the Earl of Lucan ...	490
Advowsons Bill—Bill read 2 ^a ...	491
Intestates Personal Estates Bill—Bill read 2 ^a ...	493
The Scutari Monument—Observations of the Earl of Harrington ...	493
THURSDAY, JULY 10.	
Sale of Poisons—Question of Lord Campbell ...	540
Mutiny of an Irish Militia Regiment—Question of the Earl of Donoughmore ...	543
Dwellings for Labouring Classes (Ireland) Bill—Bill read 3 ^a , and (After Debate) Bill <i>passed</i> ...	543
Bishops of London and Durham Retirement Bill— <i>Presentation</i> of a Bill by the Lord Chancellor—Bill read 1 ^a ...	546
FRIDAY, JULY 11.	
India—Case of Pertaub Singh and Bisheu Singh— <i>Presentation</i> of Petition by the Earl of Ellenborough ...	619
The Militia—Question of the Duke of Buccleuch ...	625
Poland—Question of Lord Lyndhurst ...	632
The Chelsea Commissioners' Report—Question of the Earl of Lucan ...	640
MONDAY, JULY 14.	
Italy—Statement of Lord Lyndhurst ...	710
Parochial Schools (Scotland) Bill—House in Committee—Division List on Clause 12 ...	730
TUESDAY, JULY 15.	
The Army—The Command in Chief—Question of the Duke of Somerset ...	812
Bishops of London and Durham Retirement Bill—Order for Second Reading read—Amendment of Lord Redesdale that the Bill be read a second time this day three months—Amendment <i>negatived</i> by a Majority of 12—Division List —Bill read 2 ^a ...	814
PROTEST of the Bishop of Exeter against the Second Reading of the Bishops of London and Durham Retirement Bill. ...	841
THURSDAY, JULY 17.	
Formation of Parishes Bill—Bill read 2 ^a ...	947
Bishops of London and Durham Retirement Bill—Order for Committee read—(After Debate) House in Committee ...	948
FRIDAY, JULY 18.	
Steam-packet Communication between Holyhead and Kingstown—Question of Viscount Dungannon ...	1007
Further Arctic Expedition—Question of Lord Wrottesley ...	1008
The Crimean Board of Inquiry—Report of the Commissioners—Address moved for by the Earl of Lucan—Motion <i>withdrawn</i> ...	1013
Incumbered Estates (Ireland) Bill—Order of the day for the Third Reading read ...	1022
Parochial Schools (Scotland) Bill—Bill read 3 ^a ...	1025

TABLE OF CONTENTS.

	<i>Page</i>
MONDAY, JULY 21.	
Registration of Title Deeds—Question of Lord Lyndhurst ...	1064
The Rajah of Coorg—Question of the Marquess of Clanricarde ...	1065
Summary Dismissal of the Militia in Ireland—Question of Viscount Dungannon	1067
The Slave Trade in the Brazils—Motion of the Earl of Malmesbury for Papers —Motion <i>agreed to</i> ...	1070
Ismail and Reni—Diplomatic Intercourse with Russia—Question of the Earl of Malmesbury ...	1080
Consolidation of the Statute Law—Statement of the Lord Chancellor ...	1084
Formation, &c., of Parishes Bill—House in Committee ...	1090
Bishops of London and Durham Retirement Bill—Order for Third Reading read —Amendment of Lord Redesdale that the Bill be read a third time this day three months—Amendment <i>negatived</i> by a Majority of 11—Division List— Bill read 3 ^a ...	1094
PROTESTS of Lords Denman and Dungannon against the Third Reading of the Bishops of London and Durham Retirement Bill ...	1102
TUESDAY, JULY 22.	
The Crimean Board of Inquiry—Explanation of the Earl of Lucan ...	1176
Business of the House—Observations of Lord Redesdale ...	1180
Consolidation Fund (Appropriation) Bill—House in Committee ...	1180
Coast-Guard Service Bill—(After Debate) House in Committee ...	1193
THURSDAY, JULY 24.	
The Mutiny at Nenagh—Question of the Marquess of Clanricarde ...	1347
The Legion of Honour—Distribution to the English Army—Question of Lord Calthorpe ...	1348
Marriage Law (Scotland) Amending Bill—Commons' Amendments <i>considered</i>	1352
Mercantile Law Amendment Bill—Commons' Amendments <i>considered</i> ...	1352
Parochial Schools (Scotland) Bill—Commons' Amendments <i>considered</i> ...	1352
FRIDAY, JULY 25.	
The New Palace at Westminster—Decay of the Stonework—The Patent Laws <i>Presentation</i> of Petition by Lord Lyndhurst ...	1419
India—Motion of the Marquess of Clanricarde for Returns ...	1421
Judicial Reflections on Members of the House—Judgment <i>in re</i> Dyce Sombre— Question of the Earl St. Vincent ...	1422
SATURDAY, JULY 26.	
Australian Mail Packet Service—Observations of the Earl of Hardwicke ...	1478
Bishops of London and Durham Retirement Bill—Commons' Amendments <i>considered</i> ...	1479
The Peerage—Observations of Lord Redesdale ...	1479
Leases and Sales of Settled Estates—Hampstead Heath—Commons' Amend- ment <i>agreed to</i> ...	1480
TUESDAY, JULY 29.	
PROROGATION of the PARLIAMENT—Speech of the Lords Commissioners ...	1491

TABLE OF CONTENTS.

II. SUBJECTS OF DEBATE IN THE HOUSE OF COMMONS.

	<i>Page</i>
MONDAY, JUNE 30.	
The Cornwall Militia—Question of Mr. Robartes ...	12
National Gallery Site Bill—Order for Second Reading <i>discharged</i> ...	13
Evacuation of Ismail by the Russians—Question of Colonel Dunne ...	13
Retirement of the Bishops of London and Durham—Question of Mr. Gregson ...	13
Disembodiment of the Irish Militia—Question of Mr. Davison ...	14
Our Relations with the United States—Motion of Mr. G. H. Moore expressing the disapprobation of the House at the conduct of Her Majesty's Government—Debate <i>adjourned</i> till <i>To-morrow</i> ...	14
Grand Jury Assessment (Ireland) Bill—Bill read 3 ^o ...	109
TUESDAY, JULY 1.	
Prisons (Ireland) Bill—House in Committee ...	114
Dublin Metropolitan Police Bill—Adjourned Debate—Order for Second Reading [9th June] read—Order <i>discharged</i> —Bill <i>withdrawn</i> ...	117
Colonel Lake and Colonel Teesdale—Question of Mr. Oliveira ...	118
Housebreaking in Scotland—Question of Mr. Cowan ...	118
Department of Public Justice—Motion of the Chancellor of the Exchequer for postponement of Notices of Motion—Motion <i>agreed to</i> ...	119
Our Relations with the United States—Adjourned Debate (Second Night)—Order read for resuming Adjourned Debate on Question [30th June]—Debate <i>resumed</i> —Motion of Mr. G. H. Moore <i>negatived</i> by a Majority of 194—Division List ...	120
WEDNESDAY, JULY 2.	
Judgments Execution, &c., Bill—Adjourned Debate (Second Night)—Order read for resuming Adjourned Debate on Question [22nd May]—Debate <i>resumed</i> —Bill read 2 ^o —Bill <i>committed</i> for <i>Wednesday</i> next ...	206
Bleaching, &c., Works (No. 2) Bill—Adjourned Debate—Order read for resuming Adjourned Debate on Amendment proposed to Question [5th June]—Debate <i>resumed</i> —Amendment <i>agreed to</i> by a Majority of 44—Second Reading <i>put off</i> for Six Months ...	210
Scientific and Literary Societies Bill—House in Committee ...	224
THURSDAY, JULY 3.	
Poor Law Amendment (No. 2) Bill—Order for Second Reading read—Amendment of Sir G. Pechell that the Bill be read a second time this day three months—Mr. Speaker adjourned the House ...	252
The East India Company—French Sufferers by the Inundations—Question of Mr. Otway ...	264
Crown Lands and Church Extension—Question of Mr. Thornely ...	264
Return of the Troops from the Crimea—Question of Colonel French ...	265
Entry of the Guards into London—Question of Sir John Shelley ...	265
Our Relations with the United States—Question of Mr. H. Baillie ...	266
Wills and Administrations Bill—Question of Mr. Malins ...	266
Crown Land and Church Extension—Statement of Mr. W. Williams ...	267
Education at Sandhurst—Question of Mr. Rich ...	268
Army Prize-Money—Question of Colonel Dunne ...	269
Promotion in the Engineers—Question of Captain L. Vernon ...	271
Supply—Miscellaneous Estimates—House in Committee ...	272
Wills and Administrations (Stamps)—Resolution read a second time ...	296

TABLE OF CONTENTS.

	Page
THURSDAY, JULY 3—continued.	
Wills and Administrations Bill—Order for Committee read—Amendment of Mr. Henley that the House resolve itself into Committee on <i>Tuesday</i> next—Amendment <i>agreed to</i> —Committee <i>deferred</i> till <i>Tuesday</i> next ...	296
Church-Building Commission Bill—Order for Committee read—Amendment of Mr. Hadfield that the Committee be deferred for three months—Amendment <i>negatived</i> by a Majority of 150 — Bill <i>considered</i> in Committee, and <i>reported</i> ...	305
FRIDAY, JULY 4.	
Liabilities of Cab Proprietors—Question of Mr. D. Waddington ...	320
County Court Judges' Salaries—Question of Mr. Gladstone ...	320
Troope in the West Indies—Question of Mr. Scholefield ...	320
Salary of the Bishop of New Zealand—Question of Sir John Pakington ...	321
University of Edinburgh—Question of Mr. Cowan ...	332
Improvement of Lands Commissioners—Question of Lord Lovaine ...	332
Paymasters of the Irish Constabulary—Observations of Mr. Serjeant O'Brien ...	333
Cape of Good Hope—Question of Mr. Liddle ...	336
Militia Rewards—Question of Sir Henry Willoughby ...	336
Church-Building Commission Bill—Bill read 3 ^o ...	337
Partnership Amendment (No. 2) Bill—Order for Committee read—Amendment of Mr. Muntz that the House will resolve itself into a Committee this day three months—Amendment <i>negatived</i> —House in Committee... ..	338
Parochial Schools (Scotland) Bill—Order for Third Reading read—Amendment of Sir M. S. Stewart that the Bill be read a third time this day three months —Amendment <i>negatived</i> —Bill read 3 ^o ...	372
Incumbered Estates (Ireland) Bill—(After Debate) Bill read 2 ^o	374
Ways and Means—House in Committee ...	380
Mr. James Sadleir and the Tipperary Bank—Question of Mr. I. Butt and Statement of the Attorney General for Ireland ...	381
MONDAY, JULY 7.	
Corporation of London Reform—Question of Sir J. Duke ...	398
Mr. James Sadleir and the Tipperary Bank—Question of Mr. G. H. Moore ...	399
Arctic Expedition—Question of Mr. W. Brown ...	401
Her Majesty's Ship <i>Termagant</i> —Question of Admiral Walcott ...	402
Vaccination Bill—Question of Mr. T. Duncombe ...	402
The Master of the Rolls and the Attorney General for Ireland—Explanation ...	403
Ways and Means—Observations of Sir H. Willoughby ...	404
Appellate Jurisdiction (House of Lords) Bill—Motion of the Attorney General for the Second Reading—Amendment of Mr. Bowyer that the Bill be read a second time this day six months—Amendment <i>negatived</i> by a Majority of 49 —Division List—Bill read 2 ^o ...	407
Incumbered Estates (Ireland) Bill—House in Committee ...	488
TUESDAY, JULY 8.	
Public Health Bill—Order for Committee read—Amendment of Mr. Knight that the House resolve itself into Committee this day three months—Amendment <i>agreed to</i> by a Majority of 12—Committee <i>put off</i> for three months ...	495
The Court of Chancery (Ireland) (Receivers) Bill—House in Committee ...	505
Court of Appeal in Chancery (Ireland) Bill—House in Committee ...	506
West Indies Geological Survey—Question of Mr. J. C. Ewart ...	508
Appellate Jurisdiction (House of Lords) Bill—Observations of Lord J. Russell ...	509
National Gallery—HER MAJESTY'S Answer to the Address <i>brought up</i> by Viscount Drumlanrig ...	510
Naval Officers—Motion of Captain Scobell that the disadvantageous position of certain Officers of Her Majesty's Navy is worthy of the favourable consideration of the Board of Admiralty—Motion <i>negatived</i> by a Majority of 7 ...	510
Lieutenant Colonels in the Army—Motion of Colonel Lindsay for an Address to HER MAJESTY—House counted out ...	524

TABLE OF CONTENTS.

WEDNESDAY, JULY 9.		<i>Page</i>
Civil Service—Order for Committee <i>discharged</i> ...	...	525
Tenant Right (Ireland) Bill—On the Motion of Mr. G. H. Moore, Order for Committee <i>discharged</i> ...	...	530
Judgments Executions, &c. Bill—Order for Committee read—Amendment of Colonel French that the House resolve itself into Committee this day three months—Amendment <i>negatived</i> by a Majority of 5—Debate <i>adjourned</i> ...	...	537
The Assessed Taxes Acts—House in Committee ...	...	539
Appellate Jurisdiction (House of Lords) (Salaries and Retiring Pensions)—House in Committee ...	...	539
THURSDAY, JULY 10.		
Vaccination Bill — On the Motion of Mr. Cowper, Order for Committee <i>discharged</i> ...	...	549
Appellate Jurisdiction (House of Lords) Bill—(Salaries and Retiring Pensions)—Report of Resolution <i>brought up</i> ...	...	553
Formation of Parishes Bill—House in Committee ...	...	554
Indian Appeals—Question of Sir Erskine Perry ...	...	555
Navigation of the Danube—Treaty of Paris—Question of Colonel Dunne ...	...	555
Indian Currency—Question of Mr. Cheetham ...	...	556
Site of the National Gallery—Question of Mr. Granville Vernon ...	...	556
Militia Mutiny in Ireland—Question of Colonel French ...	...	557
Consolidation of the Statutes—Question of Mr. L. King ...	...	557
Consolidation Fund (Appropriation) Bill—(After Debate) House in Committee ...	...	558
Appellate Jurisdiction (House of Lords) Bill—Order for Committee read—Amendment of Mr. Raikes Currie that the Bill be committed to a Select Committee <i>agreed to</i> by a Majority of 22—Division List— <i>Ordered</i> , that the Bill be committed to a Select Committee ...	...	568
Incumbered Estates (Ireland) Bill—Bill read 3 ^o ...	...	615
Stamp Duties Bill—Income and Land Taxes Bill—Motion of the Chancellor of the Exchequer for Leave to bring in a Bill—Motion <i>agreed to</i> —Bill read 1 ^o ...	...	617
FRIDAY, JULY 11.		
Rules of the House—Question of Mr. M. Gibson ...	...	641
The Indian Salt Duties—Question of Sir J. Pakington ...	...	643
The Sadleir Frauds—Question of Mr. Macartney ...	...	644
Central America—Question of Mr. M. Gibson ...	...	645
The Royal Engineers in the Crimea—Observations of Captain L. Vernon ...	...	645
The Master of the Rolls and the Attorney General for Ireland—Statement of Mr. Napier ...	...	652
The Nawab of Surat—Question and Statement of Sir Fitzroy Kelly ...	...	674
Staff Officers—Question of Colonel Lindsay ...	...	678
Militia Allowances—Question of Mr. Newdegate ...	...	679
The Ecclesiastical Courts—Question of Mr. Hadfield ...	...	679
Mutiny of The Tipperary Militia—Statement of Colonel Dunne ...	...	682
County Courts Acts Amendment Bill—Order for Committee read—Amendment of Mr. Gladstone that it is not expedient at the present time to impose upon the State the Expense of Establishing County Courts—Amendment <i>negatived</i> —House in Committee ...	...	684
The Master of the Rolls and the Attorney General for Ireland—Question of Mr. Roebuck ...	...	708
Divorce and Matrimonial Causes Bill—(Lords)—Second Reading <i>deferred</i> ...	...	710
MONDAY, JULY 14.		
Charter of the College of Physicians—Question of Mr. Kinnaid ...	...	733
The Irish Militia—Question of Lord Claud Hamilton ...	...	733
The Reduction of Officers of the Army—Question of Sir J. Graham ...	...	734
Metropolitan Drainage—Question of Mr. Butler ...	...	735
The Master of the Rolls and the Attorney General for Ireland—Question of the Attorney General for Ireland ...	...	736

TABLE OF CONTENTS.

MONDAY, JULY 14— <i>continued.</i>		Page
The Scottish Episcopal Church—Question of Mr. Hadfield	...	740
The Irish Militia—Question of Mr. Maguire	...	740
Medical Officers—Question of Major Reed	...	741
Italy—Motion of Lord John Russell for Papers, &c.—Motion <i>negatived</i>	...	741
Partnership Amendment (No. 2) Bill—Bill read 3°	...	801
Mercantile Law Amendment Bill—Bill read 2°	...	809
Poor Law Amendment (Scotland) Bill—Order for Third Reading read—Amendment of Mr. Blackburn that the Bill be read a third time this day three months—Amendment <i>negatived</i> by a Majority of 70—Bill read 3°	...	810
Tithe Commutation Rent-Charge Bill—Order for going into Committee <i>discharged</i>	...	811
TUESDAY, JULY 15.		
Coast-Guard Service Bill—Order for second Reading read—(After Debate)—Bill read 2°	...	842
Militia Pay Bill—House in Committee	...	860
The Guards—Question of Sir James Fergusson	...	862
Burial-Grounds—Question of Mr. Palk	...	862
Reinforcements for the Cape—Question of Lord William Graham	...	862
The Review at Aldershot—Observations of Mr. Disraeli	...	863
The Master of the Rolls and the Attorney General for Ireland—Statement of Mr. J. D. FitzGerald	...	866
Wine Duties—Motion of Mr. Oliveira for a Reduction of the Duty on Foreign Wines—Motion <i>withdrawn</i>	...	903
Reformatories for Penitent Females—Motion of Mr. Biggs for a Committee—Motion declared out of Order	...	934
General Beatson—Motion of Colonel Dunne for Papers—Motion <i>negatived</i>	...	936
Cursitor Baron of the Exchequer Bill—Bill read 1°	...	939
Consolidated Fund (Appropriation Bill)—Bill read 3°	...	939
Income and Land Taxes Bill—House in Committee	...	941
Stamp Duties Bill—House in Committee	...	943
Court of Appeal in Chancery (Ireland) Bill—Bill read 3°	...	944
Leases and Sales of Settled Estates Bill (Hampstead Heath)—Order for Second Reading read—Amendment of Mr. S. Fitzgerald that the Bill be read a second time this day six months—Amendment <i>negatived</i> —Bill read 2°	...	945
THURSDAY, JULY 17.		
Charities Bill—Order for second reading read—Amendment of Mr. Mowbray that the Bill be read a second time this day three months—Amendment <i>withdrawn</i>	...	965
Hospitals (Dublin) Bill—Order for Committee read—Amendment of Mr. Cowan that the Bill be committed this day three months—Amendment <i>negatived</i> by a Majority of 31—House in Committee	...	968
General Beatson—Observations of Mr. Roebuck	...	973
Decimal Coinage—Question of Mr. G. A. Hamilton	...	974
Civil Service Vacancies—Question of Mr. G. A. Hamilton	...	974
Capital Punishment in the Colonies—Question of Mr. Ewart	...	975
The Cape of Good Hope—Question of Mr. Cheetham	...	975
Public Business—Question of Mr. Hadfield	...	976
Biennial Grant to the Scotch Episcopal Church—Question of Mr. Gordon	...	977
Corrupt Practices Prevention Bill—Order for Committee read—Amendment of Mr. H. Berkeley that the House resolve itself into a Committee this day three months—Amendment <i>withdrawn</i> —House in Committee	...	977
Vice President of Committee of Council on Education Bill—Order for Second Reading read—Amendment of Mr. Hadfield that the Bill be read a second time this day three months—Amendment <i>negatived</i> —Bill read 2°	...	991
General Board of Health Continuance Bill—House in Committee	...	993
County Courts Acts Amendment Bill—Amendments <i>considered</i>	...	995
Marriage Law (Scotland) Amending Bill—Amendments <i>considered</i>	...	997
Coast-Guard Service Bill—House in Committee	...	998

TABLE OF CONTENTS.

THURSDAY, JULY 17—*continued.*

	Page
Mercantile Law Amendment Bill—House in Committee ...	1000
Cursitor Baron of the Exchequer Bill—Order for Second Reading read—Bill read 2° ...	1001
Judgments Execution Bill—Order for Committee read—Amendment of Mr. Whiteside that the House resolve itself into a Committee this day three months—Amendment <i>negatived</i> by a Majority of 12—Amendment of Mr. Whiteside that the Debate be now adjourned—Bill <i>withdrawn</i> ...	1002
Reformatory and Industrial Schools Bill—Lords' Amendments considered ...	1003
Joint-stock Companies' Winding-up Acts Amendment Bill—Order for Committee read—Amendment of Mr. Whiteside that the House resolve itself into a Committee this Day three months—Amendment <i>agreed to</i> —Bill <i>put off</i> for three months ...	1005

FRIDAY, JULY 18.

Income and Land Taxes Bill—Bill read 3° ...	1028
Racehorse Duty Bill—Bill read 3° ...	1030
Coast-guard Service Bill—Bill read 3° ...	1030
Cursitor Baron of the Exchequer Bill—Bill read 3° ...	1030
Good-conduct Pay of Sergeants—Question of Mr. Pellatt ...	1031
Site of Smithfield Market—Question of Mr. Ker Seymer ...	1031
The Review at Aldershot—Question of Mr. Granville Vernon ...	1032
The Land Transport Corps—Question of Mr. M. Chambers ...	1032
The Brazilian Slave Trade—Question of Mr. Bramley-Moore ...	1032
South Wales Highway Act—Question of Sir G. Tyler ...	1033
The Dulwich College Bill—Question of Mr. T. Duncombe ...	1033
Merchant Seamen—Question of Mr. Ridley ...	1034
The German Legion—Question of Sir J. Fergusson ...	1034
Bank Frauds—Question of Mr. Roebuck ...	1034
The Foreign Legion—Question of Colonel Gilpin ...	1035
Acting Assistant Army Surgeons—Question of Major Reed ...	1037
Loss of Her Majesty's Ship <i>Birkenhead</i> —Question of Mr. Gordon ...	1038
Danubian Principalities—Question of Mr. Otway ...	1040
The Bank Charter—Question of Mr. Tite ...	1040
Cambridge University Bill—Lords' Amendments <i>considered and agreed to</i> ...	1042
Civil Service Superannuation Fund—Order for Committee <i>discharged</i> ...	1045
Leases and Sales of Settled Estates Bill—House in Committee ...	1048
Vice President of Committee of Council on Education Bill—House in Committee ...	1055
Charities Bill—House in Committee ...	1060
Joint-stock Banks Bill—Adjourned Debate—Order read for resuming Adjourned Debate on Question [24th April]—Debate <i>resumed</i> —Amendment of Mr. Vance that the House resolve itself into a Committee this day three months—Amendment <i>negatived</i> —Bill <i>considered</i> in Committee ...	1062
Dwellings for the Labouring Classes (Ireland) (No. 2) Bill—Motion of Sir W. Somerville for Leave to bring in a Bill—Motion <i>agreed to</i> —Bill read 1 ^a ...	1064

MONDAY, JULY 21.

Standing Orders—Motion of Col. W. Patten for the adoption of the Report of the Standing Orders Committee—Motion <i>agreed to</i> ...	1103
Review of the Session—Notice of Motion by Mr. Disraeli ...	1107
The German Legion—Question of Mr. Murrough ...	1108
Coal Explosion in Glamorganshire—Question of Mr. Cayley ...	1113
Criminal Appropriation of Trust Property Bill—Question of Mr. Hadfield ...	1113
Loss of the <i>Europa</i> —Question of Captain Archdall ...	1114
The Crimean Report <i>brought up</i> by Mr. C. P. Villiers ...	1115
Mercantile Law Amendment Bill—Bill read 3° ...	1118
Joint-stock Banks Bill—Order for Third Reading Read—Amendment of Mr. Vance that the Bill be read a Third Time this day three months—Amendment <i>negatived</i> by a Majority of 80—Bill read 3 ^a ...	1119

TABLE OF CONTENTS.

	<i>Page</i>
MONDAY, JULY 21—continued.	
East India Company's Revenue Accounts—Statement of Mr. Vernon Smith on Indian Affairs—Resolutions <i>agreed to</i> ...	1121
Bishops of London and Durham Retirement Bill—Question of Sir J. Graham	1171
Parochial Schools (Scotland)—Lords' Amendments <i>considered</i> ; several <i>dis-agreed to</i> ...	1172
 TUESDAY, JULY 22.	
County Courts Acts Amendment Bill—Bill read 3 ^o and, after Debate on certain clauses, Bill <i>passed</i> ...	1200
Vice President of Committee of Council on Education Bill—Order for Third Reading read—Amendment of Mr. Henley that the Bill be read a third time this day three months—Amendment <i>negatived</i> by a Majority of 42—Bill read 3 ^o , and <i>passed</i> ...	1209
Political Exiles—Question of Mr. T. Duncombe ...	1218
Billeting in Scotland—Question of Sir A. Agnew ...	1219
Cape of Good Hope—Question of Mr. H. Berkeley ...	1220
Church Estates Commissioners—Question of Mr. Ingham ...	1220
Annual Finance Accounts—Question of Mr. Michell ...	1220
Our Relations with the United States—Question of Mr. M. Gibson ...	1221
The Authorised Version of the Bible—Motion of Mr. Heywood for the appointment of a Royal Commission—Motion <i>withdrawn</i> ...	1221
Members' Speeches—Motion of Mr. Wilkinson to limit the time occupied by Members in speaking—Motion <i>negatived</i> by a Majority of 27 ...	1226
Spanish Bonds—Motion of Sir John FitzGerald to consider the claims of Her Majesty's subjects on the Spanish Government—Motion <i>withdrawn</i> ...	1234
The Case of General Beatson—Motion of Mr. Roebuck disapproving of the secret inquiry into the conduct of General Beatson—Motion <i>negatived</i> by a Majority of 48 ...	1238
Bishops of London and Durham Retirement Bill—Order for Second Reading read—Debate adjourned till <i>To-morrow</i> ...	1266
 WEDNESDAY, JULY 23.	
Report of the Chelsea Commissioners—Question of Mr. Kinnaird ...	1273
Grand Juries, &c., (Ireland) Bill—Order for Second Reading <i>discharged</i> ...	1274
Poor Law (Ireland) Bill—Adjourned Debate—Bill <i>withdrawn</i> ...	1275
Bishops of London and Durham Retirement Bill—Adjourned Debate (Second Night)—Order read for resuming Adjourned Debate on Question [22nd July], that the Bill be now read a second time—Debate <i>resumed</i> —Amendment of Sir W. Heathcote that the Bill be read a second time this day three months—Amendment <i>negatived</i> by a Majority of 79—Division List—Bill read 2 ^o ...	1276
 THURSDAY, JULY 24.	
Bishops of London and Durham Retirement Bill—Order for Committee read—Amendment of Mr. Hadfield that the House resolve itself into Committee this day three months—Amendment <i>withdrawn</i> —House in Committee ...	1355
The Affairs of Spain—Question of Mr. Murrough ...	1384
Roman Catholic Clergy in India—Question of Mr. Grogan ...	1384
The Mission to Belgium—Question of Mr. W. Williams ...	1386
Expulsion of Mr. James Sadleir—Motion of Mr. Napier that Mr. James Sadleir, having absconded from public justice, be expelled this House—Amendment of Mr. Stuart Wortley that the documents referred to be printed, and the Debate adjourned—Amendment <i>withdrawn</i> , and <i>Previous Question</i> moved by Viscount Palmerston—Motion <i>negatived</i> ...	1386
Bishops of London and Durham Retirement Bill—House in Committee ...	1408
Metropolis Local Management Act Amendment (No. 2) Bill—Lords' Amendments <i>considered</i> —Amendment of Mr. C. S. Butler to disagree with the Lords in omitting Clause 1—Lords' Amendment <i>agreed to</i> ...	1416
Formation, &c., of Parishes Bill—Lords' Amendments <i>considered</i> ...	1418

TABLE OF CONTENTS.

	<i>Page</i>
FRIDAY, JULY 25.	
Pensions—Question of Mr. Bowyer	1424
The Army—Question of Colonel North	1425
The Mail Service—Question of Mr. H. G. Langton ...	1425
The Patents of Secretaries of State—Question of Mr. Murrrough ...	1426
The Report of the Chelsea Commissioners—Question of Mr. Layard ...	1426
Bishops of London and Durham Retirement Bill—Bill read 3 ^o ...	1429
Public Business—Review of the Session—Motion of Mr. Disraeli for a Return of the number of Public Bills, &c., the Orders for which, in any of their stages, had been discharged, &c.—Motion <i>agreed to</i>	1430
SATURDAY, JULY 26.	
Leases and Sales of Settled Estates—Hampstead Heath—Resolution that this House doth insist on Amendment	1481
Bishops (Scotland)—Motion of Mr. Gladstone for Papers—Motion <i>agreed to</i> ...	1481
Mr. Consul Mathew—Explanation of Mr. Gladstone ...	1488
The Ross-shire Rifles—Observations of the Earl of Dalkeith ...	1489
General Beatson—Statement of Mr. Roebuck ...	1489
Pensions—Explanation of the Chancellor of the Exchequer ...	1490
TUESDAY, JULY 29.	
The Leitrim Militia—Question of Mr. Brady	1495
Army Works Corps—Question of Sir John Shelley ...	1495
French Decorations—Question of Colonel North ...	1496
Case of General Beatson—Question of Mr. Roebuck ...	1497
Smithfield—Question of Viscount Raynham ...	1499
The Crimean Inquiry—Question of Colonel North ...	1499
PROROGATION of the PARLIAMENT	1500
TABLE OF ALL THE STATUTES	1501

III. PROTESTS.

PROTEST of the Bishop of EXETER against the Second Reading of the <i>Bishops of London and Durham Retirement Bill</i>	841
PROTESTS of Lords DENMAN and DUNGLANNON against the Third Reading of the <i>Bishops of London and Durham Retirement Bill</i>	1102

IV. NEW MEMBERS SWORN.

FRIDAY, JULY 11.	
<i>Calne</i> —Sir William Fenwick Williams, bt., v. the Earl of Shelburne, Steward of Hempholme.	
THURSDAY, JULY 24.	
<i>Dorchester</i> —Charles Napier Sturt, esq., v. Henry Gerard Sturt, esq., Chiltern Hundreds.	

HANSARD'S
PARLIAMENTARY DEBATES,
IN THE
FOURTH SESSION OF THE SIXTEENTH PARLIAMENT OF
THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND,
APPOINTED TO MEET 20 AUGUST, 1852, AND FROM THENCE
CONTINUED TILL 31 JANUARY, 1856, IN THE NINETEENTH YEAR
OF THE REIGN OF
HER MAJESTY QUEEN VICTORIA.

FOURTH VOLUME OF THE SESSION.

HOUSE OF LORDS,

Monday, June 30, 1856.

MINUTES.] PUBLIC BILLS.—1st Dwellings for Labouring Classes; Court of Exchequer (Scotland); Coatham Marriages Validity; Evidence in Foreign Suits.

2nd Stock-in-Trade Exemption; Survey of Great Britain, &c.

3rd Bankruptcy (Scotland); Joint-Stock Companies; Industrial and Provident Societies; Seamen's Savings Banks.

ROYAL ASSENT.—Excise; Insurance on Lives (Abatement of Income Tax) Continuance; West India Loans; Transfer of Works (Ireland); Peace Preservation (Ireland); Factories; Sardinian Loan.

AFFAIRS OF ITALY.—QUESTION.

LORD LYNTHURST: My Lords, a short time ago I asked my noble Friend the Secretary of State for Foreign Affairs whether he would lay upon the table of the House the correspondence relating to the affairs of Italy. Since that, the noble Lord has, on two several occasions, stated to your Lordships that a correspondence was going on, as I understood it, between Her Majesty's Government and the Government of Naples and other European Powers with regard to the affairs of Italy. I now wish to repeat my question; for, as relates to Naples, it is to be presumed, I

think, that that correspondence is at an end; and, I fear, it is an end without any satisfactory result. I form that opinion from what is now passing in Naples. I allude to the trials now going on there—the political trials—which have, as your Lordships are well aware, disclosed proceedings of a most scandalous description. Ministers of religion have been stripped of their religious dress, threatened with imprisonment—threatened even with infliction of the lash—unless they would consent to give evidence against the parties accused. The whole course of those proceedings appears to me to be a mere duplicate of those proceedings which took place on the trial of Poerio, of which my right hon. Friend the Member for the University of Oxford (Mr. Gladstone), has given so graphic a description. It appears to me, so far as I can collect, that the whole Government of Naples is in the hands of police agents, spies, and informers, and that the position of affairs in that part of Italy is truly deplorable. I beg to ask my noble Friend whether he is prepared to lay upon the table of the House copies of the communications which have passed between this Government and the Neapolitan Government, or any other European Powers, in respect to the affairs of Italy?

THE EARL OF CLARENDON: My Lords, I cannot at present inform my noble and learned Friend whether it will be in the power of Her Majesty's Government to lay upon the table of the House the correspondence to which he alludes. That correspondence, as respects Naples, has not, as my noble and learned Friend supposes, been brought to a close; we have not yet received an answer to the despatch communicated by Her Majesty's Government, in concert with that of the Emperor of the French, to the Neapolitan Government. The King of Naples was absent from that capital when this despatch arrived there; but he returned in a few days after, and we have reason to believe that he gave directions that an answer should be made out and forwarded to the Neapolitan Ministers in London and Paris, to be by them communicated to the French and English Governments. Well, as I said before, we have not yet received it; and until we shall have received it, and Her Majesty's Government shall have determined what further steps are to be taken in respect of the affairs of Italy, my noble and learned Friend will understand that it would be premature to lay this correspondence upon the table. With respect to the correspondence that has taken place between this Government and other Governments in regard of the affairs of Italy, it is perfectly true that we have offered our opinions and advice to those Governments whose armies occupy a portion of the Italian States; but I do not think the object my noble and learned Friend has in view would be served by the production of this correspondence at present. I believe that the only result of its production would be to check the friendly and confidential communication which is now going on, and from which some good may be expected. Your Lordships must be aware that to correct the state of things now existing in that country, and to render the withdrawal of those foreign armies safe, must be a work of some time. I can, therefore, only hope that my noble and learned Friend will accept the assurance that nothing which it is possible for Her Majesty's Government to do has been or will be neglected to promote the cessation of this foreign occupation. I believe that the French and Austrian Governments are both desirous to withdraw their troops from the Roman territory, and that this withdrawal will take place as soon as a military organisation which the Pope is preparing shall have been completed.

LORD LYNTHURST: Will my noble Friend lay on the table the correspondence with the Neapolitan Government as soon as the answer arrives?

THE EARL OF CLARENDON: Until I see the answer I cannot tell; but my noble and learned Friend will have an opportunity of repeating his question.

OATH OF ABJURATION AMENDMENT BILL.

THE EARL OF DERBY: My Lords, before the Orders of the Day are taken I wish to say a few words on the subject of a Bill which I introduced a short time ago, and which stands for the third reading on Thursday next. That Bill was for the amendment of the oath of abjuration; or, as my noble and learned Friend (Lord Lyndhurst) would like better, a Bill to amend the oath "commonly called" the abjuration oath. That Bill was introduced to effect an object which all your Lordships desire — namely, the abrogation of certain portions of that oath which, having become obsolete, are useless, and, being useless, are indefensible. My Lords, I was in hopes that the Bill, having that object, would have been discussed without any allusion to another subject with which it had been on former occasions connected, and I framed the Bill so as to avoid any reference to that other subject; and I hoped that in this and the other House of Parliament the proposed measure would have been received in a spirit of conciliation; but the character of the comments which have been made on the Bill in its progress through this House, and of which, I think, I have some cause to complain, and the misconstruction of its objects by so high and so respected an authority as my noble and learned Friend (Lord Lyndhurst), deprives me of the hope that it would be received in the other House in the spirit in which it was intended. For peace and conciliation I introduced a measure, as it appeared to me, of the most unobjectionable kind; but I have been met in a spirit of defiance and hostility. I have been charged with having promoted that which would bring about discussions on a subject likely to produce considerable irritation; whereas my sole object in introducing the Bill was to avoid — sedulously to avoid — that. But in the present state of the public mind — since there is no hope that the Bill will be passed into law in the spirit in which it is intended — I will not, so far as I am con-

cerned, be answerable for reintroducing an irritating topic, upon which the two Houses are at variance. Looking, then, at the probability of the Bill leading to inconvenient discussion, and having regard to the period of the Session at which we are arrived, I will ask your Lordships' permission for the discharge of the Order for the third reading; but, in doing so, I must at the same time be permitted to say that it remains my firm conviction that a Bill such as that which I have introduced is the only mode of effecting the abrogation of those unnecessary oaths. If, for the future, those oaths which are unnecessary, and therefore objectionable, and of which every one is desirous of getting rid, be retained, I trust that I shall not be held responsible for their retention. I did my best to get rid of them; and the responsibility of their retention must rest with those who will not agree to their abolition, unless attached to that abolition are other provisions referring to another entirely distinct subject which this House has repeatedly expressed its determination conscientiously to refuse.

LORD LYNTHURST: I will not now enter upon a discussion of the question; but the noble Earl complains of the course which I pursued on a former occasion with respect to this Bill. Now, I have much more reason to complain of the noble Earl's conduct, because, on that occasion, in terms not of the usual courtesy, he charged me with, not misapprehending the Bill, but misrepresenting the objects of the Bill. However, the comments which I then addressed to your Lordships were perfectly legitimate, and quite consistent with the character of the proceedings in your Lordships' House.

LORD CAMPBELL: I should be glad to have this oath abolished, as it is my painful duty often to listen to the profanation which the taking it involves; but the noble Earl opposite has done well to withdraw his Bill, as no good can possibly arise either to the cause which I have at heart—the abolition of the oath—or to that which is the noble and learned Lord's object—the removal of disabilities in the way of the Jews. In all probability, the Bill would have been returned to this House in such a state as to make it identical with the Bill your Lordships have rejected. I do not wish to see any such conflict between the two Houses, because I hope to see the time when, with the

assent of both, justice may be done. Nor do I wish that the House of Commons should take upon themselves by Resolution to alter the law of the land; but that the Jews may be admitted to Parliament by the only way in which they can be admitted—by the consent of both Houses.

THE EARL OF MALMESBURY: I very much regretted the other night that this Bill was not discussed in a plain and straightforward manner—on the plain meaning of its words; but an example was set by my noble and learned Friend (Lord Lyndhurst)—an example likely to be followed—to depart from the plain sense of the Bill, and to attribute motives to my noble Friend beside me (the Earl of Derby) for bringing in that Bill—motives by which my noble Friend denies having been actuated. If, my Lords, I regretted that circumstance the other night, I regret it still more now—

LORD LYNTHURST: I beg to correct my noble Friend. He is quite under a mistake. I stated that I conceived the noble Earl to be under a mistake as to what would be the real effect of the Bill; but I did not impute motives to the noble Earl.

THE EARL OF MALMESBURY: Well, I think the House must have understood my noble and learned Friend to argue as much against this Bill as one which he believed would operate against the admission of Jews into Parliament, as he did against the plain sense of the words of the Bill itself. I certainly understood him to argue against it more on the former ground; and I regret very much that my noble and learned Friend should have departed from the plain sense of the words of the proposed measure. I am sorry, that instead of arguing on the merits of the Bill before the House, he did not refrain from entering on the discussion of a subject which the House had considered and decided upon a few evenings before. My Lords, I regret still more that the noble and learned Lord should have repeated that censure and that argument immediately after my noble Friend had withdrawn his Bill, and thereby shown the respect he had for your Lordships, and also shown what his motive was in opposing the Bill. Again, I repeat my regret that such an example of departure from the plain dealing which characterises and should ever characterise your Lordships' House should have been set by such a distinguished Member as my noble

and learned Friend. But I shall only repeat the maxim in Horace. *Decipit exemplar vitiis imitabile.*"

LORD LYNDHURST: What I complained of was, that although the words of abjuration were omitted, the whole sting remained, because "the true faith of a Christian," would still have formed part of the oath. The sending such a Bill down to the other House, after they had sent a Bill here in which those words were carefully excluded, would not have been very acceptable to them.

THE MARQUESS OF CLANRICARDE: I am sure the common sense of Parliament and of the country will not permit the maintenance of this absurd and irreverent oath. It ought not to be remodelled; it ought to be abolished. If you will have an oath at all, have an oath of allegiance and fidelity in plain simple terms, which every good subject can take, whatever may be his religion: and if you choose to exclude Jews and infidels, make the oath in such terms as every denomination of Christians can take it. You ought not to continue this absurd oath, because incidentally it has the effect of excluding the Jews.

Order for the Third Reading on *Thursday* next *discharged*; and the Bill (by Leave of the House) *withdrawn*.

THE EAST INDIA COMPANY—VOLUNTARY PAYMENTS—QUESTION.

THE MARQUESS OF CLANRICARDE wished to ask whether the sum of £500 lately subscribed by the Chairman of Directors of the East India Company in aid of the sufferers by inundations in France had been supplied by proprietors of East India Stock or had been taken from the public revenues of Her Majesty's possessions in India? and, in the latter case, whether subscriptions, grants, or gratuities, not exceeding £600, taken from Indian revenues, are subject to the control of Parliament or of Her Majesty's Government, or are limited by any fixed regulation? If that money was (as he suspected) to be paid from the public revenues of India, he must say that he regarded such a course as alike improper and unconstitutional. He was not to be understood as not sympathising with the sufferers in France, nor as condemning the raising of money by subscriptions in this country for their relief. He thought, on the contrary, that those subscriptions did honour to the

The Earl of Malmesbury

country; but he objected to the East India Company voting away money that belonged to England. He denied the authority of the Directors of that Company, composed of eighteen individuals, twelve of whom were elected by the Company themselves, to do what the Government of England had not the power to do. He understood that the Board of Directors claimed a right to expend sums not exceeding £600 without receiving the sanction of any authority, and based that claim upon the terms of the 88th section of the Act of 1813. It must, however, be remembered that in 1813 the revenues of India were the property of the East India Company, but since 1833 those revenues had passed from the hands of the Company and were now administered by the Indian Government. In the present case the purpose for which the money was voted could not be objected to, but, if the power claimed by the Board of Directors was yielded to them, they would have the power of voting sums to every charity in London, and at the same time of exercising their generosity, not at the expense of the East India Company, whose receipts would not be at all affected by them, but at the cost of the Indian Government, out of whose revenues those payments were to be made.

THE DUKE OF ARGYLL trusted that his noble Friend would excuse him if he confined himself entirely to answering the questions put to him. The vote come to by the Court of Directors in aid of the sufferers by the recent inundations in France was, as his noble Friend suggested, to come out of the general revenues of India. The vote had received the sanction of the President of the Board of Control, who had it in his power to negative it, if he thought it expedient to do so. In regard to the other question of his noble Friend, he had to inform him that there were no abstract rules laid down upon the subject; but he believed it had been the custom of the East India Company from time to time to subscribe sums of money for various charitable objects. They did so under the powers of the Act to which his noble Friend referred, and he had never heard the legality of the practice doubted. His noble Friend had expressed an opinion that the East India Company ought not to have this power. He (the Duke of Argyll) differed entirely from him. He believed that Parliament had wisely left this power in the hands of the

East India Company. There was no doubt whatever of the existence of this power. He did not think that his noble Friend would question the legitimacy of the object for which the subscription was given, nor the wisdom of the President of the Board of Control in not negating the vote come to by the East India Company, considering the circumstances of the case and our relations with France.

THE EARL OF ELLENBOROUGH said, that, as he understood the Act of Parliament, the concurrence of the President of the Board of Control in this grant of the Directors of the East India Company could not possibly have the effect of making it legal. It was not the relic of ancient power, it was a relic of ancient practice. Previous to the Act of 1833 the East India Company possessed the revenue of India as their own property, and they might then have justly and legally expended their money in such subscriptions as the one in question. But the Act of 1833 entirely changed the nature of their connection with India. All their property was taken from them; they had sold it for an annuity, and that annuity was to a certain degree guaranteed by Parliament. They, therefore, had no interest in India, except that given to them by the Act of 1833, and that Act made them trustees for the Crown, for the purpose of discharging the duties of the Government of India. They were trustees for that office only; and no expenditure made by them could be legal which was not clearly and evidently for the service of the Government of India. But could it be pretended that this subscription for the relief of the sufferers from the inundations in France was in any respect for the service of India? This expenditure was, therefore, illegal, and many of the expenses incurred by the Court of Directors were illegal, according to the strict interpretation of the Act of 1833. It was not, however, under any clause in the Act of 1833 that the Court of Directors would attempt to justify this application of their funds. By the Act of 1833 the Court of Directors were directed to submit to the Board of Control an estimate of the gross sum annually required for the payment of the salaries of the Court and of the officers and servants thereof, and of all other proper expenses either fixed or contingent. This sum might be varied from time to time. The Board of Control might refuse to acquiesce in the sum demanded, giving

their reasons for it; but the sum having been once granted, the Board could not interfere as to the manner in which it was to be expended. Now, many of these gross abuses and illegalities had been continued in consequence of the Court of Directors not having sent in new estimates of the annual expenses; and also in consequence of the Board of Control not having struck out, when such estimates were before them, expenses which might have been proper before the Act of 1833 was passed, but which were illegal subsequently to that Act. He thought it, therefore, possible that this sum of £500 might have been taken from a balance of the sum annually granted by the Board of Control for the expenses of the Court of Directors. But it was not merely to a subscription to assist the sufferers from the inundations of France, or to subscriptions to many excellent charities in this country, that he objected; but it was to the large expenses frequently incurred by the Court of Directors, which they ought no longer to be permitted to incur, that he entertained the strongest objections. What would their Lordships think of a Secretary of State of this country who, on the examination of the cadets at Sandhurst or at Woolwich, should invite forty or fifty officers to go down, undertaking to pay all their expenses, and giving them a magnificent dinner on their arrival? What would be thought of the noble Lord if he asked Parliament for a Vote to defray all this expenditure? Would the House of Commons tolerate an estimate of an expense incurred for such a purpose? Their Lordships knew they would not. Her Majesty's Ministers thought it necessary, on certain great occasions, to indulge in grand dinners by way of great demonstrations. The Members of the Government, at the commencement of the late war, thought it expedient to inaugurate that war by a grand dinner at the Reform Club, at which the most sanguine anticipations were expressed of an easy and brilliant victory—in which the naval department was most especially exalted; but he apprehended that the expense of that dinner never appeared in the naval estimates to be paid for by the country. Neither would the army estimates, he ventured to say, include the expense of the dinner to be given by the Secretary of War to Sir William Codrington, on his return from the Crimea. It was not for the benefit of the Government

of India that these expenses should be incurred. The service of that Government was not the object of such expenditure, and, therefore, it could not be considered legal. But the Court of Directors seemed to be of the same opinion as Louis XIV., and appeared to conceive that "they were the State." It was not the first time that he called the attention of her Majesty's Government to this subject, and he did earnestly entreat the Government to consider whether a Bill ought not to be brought in forthwith for the purpose of establishing an independent audit of the accounts of the East India Company. It was really too bad that £23,000,000 should be expended, year after year, without any independent audit whatever—with no audit but that which was under the control and influence of the very persons by whom the money was expended. Parliament would not be acting honestly towards the people of India if it allowed this system to continue any longer. He, therefore, did trust that the Government would not allow this Session to pass without introducing a Bill for the purpose of putting an end to that most injurious system.

ANNUITIES REDEMPTION BILL.

On the Order for the Third Reading of this Bill,

EARL POWIS complained that this Bill had reached its present stage without any explanation of its provisions. The measure was one of great importance, and demanded their Lordships' best attention. It provided for the capitalisation of the annuity of a noble Duke (the Duke of Grafton), but said not one word as to what was to be done with the money—it did not state whether the money was to be vested in trustees, or placed absolutely at the disposal of the party in question. The annuity had originally been granted to sustain the title, and he thought that means should be taken to continue it to that use, as the title was not at all likely to become extinct. He also found by purchasing the annuities this year, when we were obliged to resort to loans to equalise receipt and expenditure, a dead loss to the country of about £40,000 would be incurred, seeing that for every £100 we received we issued £111 2s. 6d. stock. Had we waited for a surplus year the transaction might have been effected without loss.

LORD STANLEY OF ALDERLEY said, that the disposal of the redemption

The Earl of Ellenborough

money. would be arranged by the law officers of the Crown, with the view of preserving the original purpose of the annuity intact.

LORD MONTEAGLE said, that the question for consideration was whether or not the Bill met the justice of the case. It should be remembered that the Bill did not actually effect a commutation, but gave necessary powers for effecting a commutation. He thought, however, that the facts were as yet not before the House with sufficient distinctness; he would therefore suggest that the third reading of the Bill should stand over for a short time.

LORD REDESDALE concurred with the noble Lord in thinking that the House was not sufficiently informed as to the parties entitled in remainder to this pension.

LORD STANLEY OF ALDERLEY explained that the terms of the Bill empowered the Lords of the Treasury to pay the monies to the parties entitled. He would, however, postpone the Bill, for the purpose of obtaining further information, until Thursday next.

Third reading *put off to Thursday next.*
House adjourned till To-morrow.

HOUSE OF COMMONS,

Monday, June 30, 1856.

MINUTES.] PUBLIC BILLS.—1° Militia Ballots Suspension; Turnpike Acts Continuance.
2° Distillation from Rice; Oxford College Estates.
3° Grand Jury Assessments (Ireland); Exchequer Bills (£4,000,000); Drainage (Ireland); Intestates' Personal Estates; Dissenters' Marriages.

THE CORNWALL MILITIA—QUESTION.

MR. ROBARTES said, he would beg to ask the hon. Gentleman the Under Secretary for War why the 2nd Cornwall Rifles were not included in the list of militia regiments which volunteered for foreign service during the late war, as the officers and men of that regiment unanimously expressed their readiness to serve Her Majesty wherever they could be of use?

MR. FREDERICK PEEL said, it was not competent for the Government to accept the offer to serve abroad on the part of a militia regiment, until after the passing of the Bill of December, 1854. The offer of the 2nd Cornwall Militia was made in April, 1854, when there were no regi-

ments of militia even embodied, and the Government were not in a position to accept the offer, however much it might have been required.

NATIONAL GALLERY SITE BILL.

Order for Second Reading read.

MR. SPOONER said, the National Gallery Site Bill stood on the paper for that evening; he wished to know whether it was the intention of the Government, after the Vote of last Friday, to proceed with it further that Session?

VISCOUNT PALMERSTON replied that, after the expression of opinion by the House on Friday night, it was not his intention to proceed further with the Bill; at all events during the present Session. He proposed, therefore, to discharge the order.

Order for Second Reading discharged.

EVACUATION OF ISMAIL BY THE RUSSIANS—QUESTION.

COLONEL DUNNE said, he wished to know if any information had been received by the Government with regard to the destruction of the fortresses and works at Ismail and Beni previous to the evacuation of those places by the Russians?

VISCOUNT PALMERSTON: Sir, no official information has been received to that effect. I believe, however, that the Russians conceive themselves at liberty, in consequence of what passed at the Paris Conferences, to destroy these works. Of course, if they have done so, the only result will be to impose upon the Turkish Government certain expenses in re-establishing the works when they come into possession of the ceded territory.

BETIREMENT OF THE BISHOPS OF LONDON AND DURHAM—QUESTION.

MR. GREGSON said, he would beg to ask the First Lord of the Treasury whether it was in the contemplation of the Government to propose any plan for the retirement of bishops on pensions similar to the arrangement for Colonial Bishops, Lord Chancellors, Judges, and Ministers of State?

VISCOUNT PALMERSTON: It is not my intention to propose any general measure upon the subject. But the Bishop of London and the Bishop of Durham having both signified their wish to retire in consequence of infirmities which, in their opinion, render it impossible for them with satisfaction to themselves to continue in the

active discharge of their functions, I shall have to propose a Bill limited to those two cases.

DISEMBODIMENT OF THE IRISH MILITIA—QUESTION.

MR. DAVISON said, he wished to ask the First Lord of the Treasury whether any particular time had been fixed for the disembodiment of the Irish militia?

VISCOUNT PALMERSTON said, that his noble Friend (Lord Panmure) had requested the Lord Lieutenant of Ireland to use his discretion in fixing the time for the disembodiment of particular Irish regiments of militia; and whilst on the one hand he did not keep them embodied longer than was necessary with a view to economy, on the other hand, to allot the periods of disembodiment in the different parts of the country so as to make the process coincide with the commencement of harvest operations.

OUR RELATIONS WITH THE UNITED STATES.

On the question that Mr. SPEAKER do leave the chair, in order that the House go into Committee of Supply, being put,

MR. G. H. MOORE rose to move the Resolution with regard to the American question of which he had given notice.

MR. W. BROWN rose at the same time, and said he would appeal to his hon. Friend the Member for Mayo not to proceed with his Motion. From all he had heard there was a strong feeling both in that House and in the country that the matter should be left in the hands of the Government and the American Minister now in England, in order that the differences which had unfortunately arisen between the two countries might be adjusted. He had no doubt that, unless some cause of irritation should arise, those disputes would be amicably arranged compatible to justice and honour, and to the satisfaction of both parties. He thought it would be exceedingly unwise to discuss any supposed fault or irregularity in the arrangement of public affairs so long as negotiations were pending and the mouths of Ministers were shut, so that they could not give answers which they would otherwise be able to make. Under those circumstances, he must decidedly but respectfully appeal to his hon. Friend not to proceed with his Motion at the present time.

MR. CHEETHAM said, he cordially joined in the appeal which had been made

by his hon. colleague. He believed that the negotiations between the two countries were at the present moment in a favourable condition, and, as he was sure that the hon. Gentleman would not wish to arrest the progress of those negotiations, he (Mr. Cheetham) hoped that he would not press his Motion.

MR. J. C. EWART said, that there was among his constituency a strong feeling that nothing ought to be said or done in that House which would in the slightest degree interfere with those negotiations for a pacific solution of the difficulties between this country and the United States, which were, he believed, now going on. He therefore heartily concurred in the appeal which his hon. Friends near him had addressed to the hon. Member for Mayo.

MR. SPOONER said, that the feeling against a discussion upon the American question was not confined to Liverpool. It was very general. [*A laugh.*] Hon. Gentlemen near him might laugh, and it was always with the greatest diffidence that he differed from his hon. Friends around him, but he did deprecate discussion on this subject. No possible good could arise from it; but it might be followed by difficulties and evils of the greatest magnitude. The hon. Gentleman the Member for Mayo (Mr. Moore) said, by his Motion, that the Government had not deserved the approbation of the House. Had they asked for it? All they said was, "Wait, and see what we do." He gave no opinion upon their conduct; he was not prepared to give an opinion. An hon. Gentleman near him said that he ought to do so; he had formed an opinion, but he was not prepared to express it. He was prepared to support his party as far as any man, but he would not surrender his own opinion when he was convinced that by so doing he should run the risk of inflicting a great injury upon his country. What good could arise from a discussion of this question at the present moment? The American Government had acquitted that of Her Majesty, and had said that they had no fault to find with it, but, unfortunately, they had some dislike to our Minister at Washington. Were hon. Members prepared to bring on at the present moment a discussion which would endanger the amicable relations between the two countries? ["Oh, oh!"] Let not hon. Gentlemen deceive themselves. If this discussion went on, expressions might be used, false estimates of the opinion of that

Mr. Cheetham

House and of the country might be formed, which might, they knew not how much, embarrass and delay the Government in carrying on negotiations for the settlement of our differences with America. In his opinion Ministers had better preserve a complete and perfect silence. [*A laugh.*] Hon. Gentlemen might laugh, but the country would be exceedingly indignant if anything should escape from Ministers which should produce a contest with America. A heavy responsibility rested on Ministers, in which he recommended the House not to share. If the discussion should be carried on, and there should arise difficulties which would prevent the completion of a treaty, the Government would say that it was all the fault of the House—they were going on smoothly, when the House stepped in and took the matter out of their hands. He therefore urged the hon. Member to withdraw his Motion, and implored his hon. Friends to pause before they sanctioned the progress of this discussion. For his own part, he was not prepared to support any proposal which could have the effect of weakening the hands of Government at so critical a juncture, or of incapacitating them from bringing to a satisfactory conclusion the disputes unhappily pending between this country and America. [*Laughter.*] He was not to be laughed down, nor would ridicule deter him from giving fearless expression to his honest convictions. He by no means desired to identify himself with the policy of the Government, or to express any opinion on it one way or the other, but it was essential to the welfare of the country that they should not be embarrassed at such a moment. Should we unfortunately be plunged into war, we should be ready to protect our rights and to defend our honour and dignity; but circumstanced as we were at the present moment, the better course would be to abstain from discussion. On every consideration of public honour and of patriotism, and by his sense of what he owed alike to his country, to that House, and to himself, he conjured the hon. Member for Mayo not to persevere in his Motion.

MR. G. H. MOORE said, that the opinion of the hon. Member for North Warwickshire (Mr. Spooner) must necessarily have great weight with him on any subject, but more particularly on the subject of exciting ill-will and disunion among various classes, sects, and communities. He regretted, however, that he could not

be guided by his counsels on the present occasion. With regard to the hon. Members who had appealed to him from the opposite side of the House, he was bound to listen with great respect to any admonition that might come from them; but, in this instance, he must refer them for a reply to the observations which he had made upon the same subject on Friday evening, and which the hon. Gentleman would, doubtless, have the candour to admit they had not refuted. The hon. Member for North Warwickshire had spoken of this as of a party question. [Mr. SPOONER: Hear, hear!] The form of the notice might, no doubt, be correctly described as that of a party Motion, but the question involved was one which ought to be decided by that House without the slightest reference to party considerations, and in a purely judicial spirit. It was a question of right and wrong which had arisen between the Governments of two great countries, and which, in his view of the matter, had been settled on a basis of present dissatisfaction and of future danger, as regarded the feelings and opinions of the people of both nations, inasmuch as it had been left to be arranged by the wrongdoers themselves, and on the principle of saving their own character, or, at all events, their own position, at the expense of the national honour, which it was their duty to have guarded. In so far as such a proposition must, if entertained by the House, affect the position of Her Majesty's Government, it might so far be termed, if hon. Gentlemen liked the term, "a party question," but most assuredly it was one which ought to be judged by the House without regard to party consequences, and upon considerations the highest, widest, and most extensive which could govern the opinions of men. In his opinion, there were no circumstances which ought to be watched by Parliament with more vigilant and anxious attention than those which affected our relations with a people who, sprung from our own soil, spoke the same language, were governed by the same institutions, swayed by the same motives, and inspired by the same great instincts as ourselves. There was nothing which England ought to cherish with more hope and pride than to be loved and honoured by that great community of nations of her own blood and race who, gradually multiplying, were covering the earth with their colonies, the sea with their fleets, and who carried with them, wherever they went,

the energy and the enterprise, the all-conquering will and the indomitable self-reliance of the great people from whom they had sprung. Although we had lost the political Government of the United States, as we might hereafter be doomed to lose that of other colonies, which might grow too powerful to admit of their being ruled by other hands than their own, we ought never to surrender—never to let lapse, by any fault of ours, our right to their reverence and allegiance, and our title to be regarded as the head of their race, the centre of their civilisation, the fountain of their inspirations, and the standard of what every nation ought to be in principle, policy, and conduct. Whatever might be the faults and follies of the American people, he believed them to be a people of wise and sagacious as well as ardent inspirations; and that there was no stronger impulse in the heart of an American than an instinctive admiration of the old country, and an intuitive desire for brotherly association with her children. But it was not to be wondered at if America should grow gradually tired of an attachment which was repelled, if not repudiated, and if she should become dissatisfied with an alliance which was occasionally ungracious, exacting, and inconsiderate. There was nothing which required to be watched with greater attention than the growth of such a feeling in the public mind of America, for in our transactions with that country our only policy was to compel their respect. As regarded our political and diplomatic relations, they rested on the foundations of truth and honour, of fair dealing and open speaking, and to abandon those principles would be to loosen the bonds of union between both countries and to expose each to a common calamity. He firmly believed that a well-founded distrust on the part of America in our character for integrity and veracity would be the most disastrous circumstance, the direst misfortune that could possibly befall this country, and it was because the English Government had, in his opinion, justly forfeited the respect and esteem of the people and Government of America that he deemed it to be the duty of that House to declare, at once, that, for the folly and weakness which had led to that result, and which, if persevered in, might lead to consequences still more lamentable, the people of England were in no degree responsible; and that they had had no act or part in bringing about a state of things

which it was impossible to regard with other feelings than those of sorrow and solicitude. The issues raised by this question were neither to be mistaken nor evaded. They had been fairly and thus accurately stated by Lord Clarendon himself in one of his despatches—

“The real questions at issue between Her Majesty’s Government and that of the United States are, whether the British Government ordered or contemplated any violation of the neutrality laws of the United States; whether, if the British Government did not order or contemplate such violation, those laws were nevertheless violated by persons acting with the authority or approbation of the British Government?”

Now, on those two points he was prepared to join issue with Her Majesty’s Government, and he would undertake to make it clear that the neutrality laws of the United States had been grossly and deliberately violated and outraged by persons acting with the consent and approbation of Her Majesty’s Government, and that Her Majesty’s Government did contemplate and sanction the violation of those laws. He was aware that the American Government had, in their last despatch, offered with contemptuous courtesy to separate the two propositions—that was to say, to separate the responsibility of Lord Clarendon and of the Government from that of Mr. Crampton: but, however well that diplomatic fiction might suit the purpose of the American Government, it could not be accepted by the British otherwise than at the expense of their own truth and honesty. That distinction of the American Government was based first on the disputed avowal of Mr. Crampton, and, secondly, on the distinct avowal of Lord Clarendon, that Mr. Crampton was enjoined to act above-board and to have no concealment from the Government of the United States. For his own part he cared not to consider whether Her Majesty’s Government had or had not thought proper in their last despatch to ride off on that assumption. If they had it would avail them nothing, for it could be distinctly shown that Mr. Crampton had performed the duty indicated to him by Lord Clarendon, that he had acted on that interpretation of the law which had received the sanction of Lord Clarendon, and that from first to last he had pursued a course which had been authorised, accredited, and finally defended by Lord Clarendon. As for Lord Clarendon having deprecated a violation of the American law, so too had Mr. Crampton; but both insisted with equal pertinacity on

Mr. G. H. Moore

placing upon that law a perverse construction which had led to its being violated, and in that respect they were both equally blameable. But although Her Majesty’s Government might be in a position to assert that the disavowal of Mr. Crampton’s Acts (which the American Government assumed) did not rest upon an explicit declaration of their own, it was not so in regard to the assurance given by Lord Clarendon to which he had already referred, and which the American Government accepted in explanation. Lord Clarendon, writing to Mr. Buchanan at the beginning of the controversy, expressly declared that Mr. Crampton was enjoined above all to practise no concealment with the American Government. That declaration had been accepted by the United States’ Government; they had made the most effective use of it from one end of the correspondence to the other, and it had been quoted with triumph by Mr. Marcy in his last despatch. Mr. Marcy said—

“If Mr. Crampton believed that what he was doing, or intended to do, in the way of recruiting was right, he could have had no reluctance to communicate it to me, for his instructions required him to make that disclosure. Acting in due frankness, and with a proper regard for the dictates of international comity, Mr. Crampton should, it would seem, have disclosed to me all the measures intended to be pursued within the United States by the agents of his Government, including himself, in execution of the Act of Parliament for raising the Foreign Legion. Nay, he was expressly commanded by his Government to practise no concealment with the American Government on the subject. If he had obeyed these orders all misunderstandings between the two Governments would have been prevented.”

Now that was the assurance on which Her Majesty’s Government consented that they should be held exculpated and Mr. Crampton impeached, and was it true? He called on Her Majesty’s Government to show that it had the slightest foundation in fact. On that point the whole question turned. If our Government enjoined Mr. Crampton to use no concealment, then there was an end to the charge against them; but if, on the contrary, Mr. Crampton received no such injunction, Her Majesty’s Ministers could not escape from their responsibility. In making that assertion, however, Lord Clarendon, while betraying an imaginative memory as to what he had enjoined, evince a distinct consciousness of what he ought to have enjoined and of what Mr. Crampton ought to have done. He (Mr. Moore) would prove that, so far from there having been no concealment on the part

the English authorities in America, their conduct was all concealment—all a disavowing and denying of everything and everybody that was found out—all an aiding, abetting, and approving of everybody who remained concealed and of everything that worked well underground. He undertook, also, to show that Mr. Crampton was not "enjoined above all," nor even enjoined at all, to avoid concealment; but that he was abetted, sustained, approved, and defended in a course of conduct of which concealment was the very key-stone and afforded the only possible hope of success. It should be remembered that the question of the neutrality of the United States and the strict enforcement of the laws relating to it were first mooted and insisted upon by Her Majesty's Government. Early in April, 1854, in the beginning of the war with Russia, Mr. Crampton wrote to Mr. Marcy to the following effect—

"The allied Governments confidently trust that the Governments of countries which may remain neutral during this war will exert their authority and enforce on their subjects the necessity of observing the strictest neutrality, and also that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other manner opposite to the duties of a strict neutrality."

To this reasonable demand the American Government returned this pithy answer—

"The law of this country imposes severe restrictions not only upon its own citizens, but upon all persons who may be resident in the United States, against equipping privateers, receiving commissions, or enlisting men therein for the purpose of taking part in any foreign war. It is not apprehended that there will be any attempt to violate the law, but should the just expectations of the President be disregarded he will not fail in his duty to use all the power with which he is invested to prevent any such participation in the contest in which the principal powers of Europe are now engaged."

Well, that demand of our Government was cheerfully acceded to by the Government of the United States, and thus a clear understanding was formed between the two Powers as to their relative duties in regard to the neutrality of the latter. The interpretation now, however, sought to be put upon the arrangement—namely, that the Americans were unequivocally bound down to prevent any armaments from being fitted out in their country against the interests of England, but that under a quirk or quibble of law we were at liberty practically and in fact to carry out our wishes as regard to the enlistment of men in

the United States to fight against Russia—was really so monstrous, unreasonable, and unjust that no man of honest feeling or common sense would listen to it for a moment. Unfortunately, we soon began to take new views on the question of neutrality, and, construing right and wrong after a peculiar fashion of our own, insisted also on others construing them in the same way. The Foreign Enlistment Bill passed both Houses of Parliament; not, however, because it was deemed an unexceptional measure, but because the Legislature, having intrusted the Government with the conduct of the war, could not, without relieving them from their responsibility, refuse them the means which they asserted to be essential for its successful prosecution. The Bill, however, did not pass through either House without many explanations, or without assurances—not, indeed, contained in its provisions, but as solemnly binding as any understanding come to between the Legislature and the Government possibly could be. The Duke of Newcastle having been asked in the other House into what countries it was proposed to introduce the system of enlistment, replied that he could give no answer until the Governments of different nations had been consulted. That, in his opinion, must be taken as an indication that the Duke of Newcastle had no idea of enlisting in other countries without the consent of their Governments; and he believed that noble Duke incapable of giving such an intimation with a covert intention to violate its purport and spirit. It was for the noble duke's colleagues to say whether or not he (Mr. Moore) had rightly interpreted his meaning and views on the matter. The measure having, however, become law, the next question was, how was it to be put into operation consistently with the neutrality laws of other nations, and in conformity with the engagement into which our Government had entered with Parliament? A letter was sent from the Foreign Office to Sir Gaspard le Marchant, the Governor of Nova Scotia, suggesting that he should make certain inquiries as to the bringing of men presenting themselves to our consuls in the United States as willing to serve Her Majesty from their places of residence in the States to that British colony. That communication was enclosed by Lord Clarendon in a despatch to Mr. Crampton, with the following significant *addendum* :—

"The subject is one which engages the earnest attention of Her Majesty's Government, and you will use your best endeavours to give effect to their wishes."

The first step taken in the matter by Mr. Crampton was wise and discreet; and he was strongly induced to believe that if he had had a wise and discreet chief over him our Ambassador at Washington would never have got into the trouble in which he subsequently became involved. Writing to Lord Clarendon, in answer to the despatch just mentioned, Mr. Crampton said:—

"In order that no misconception or mistake should arise in regard to this matter, which is justly regarded by Her Majesty's Government as one of primary importance, and which is, indeed, an indispensable condition to success in the objects they desire to effect, I have caused the legal opinion in regard to the bearing of the neutrality laws of the United States in this matter, of which I have the honour to enclose a copy, to be drawn up by an eminent American lawyer, in the soundness of whose views—both professional and political—I place the firmest reliance."

Mr. Crampton thus placed a very just reliance in the soundness of the views of the eminent lawyer who drew up that document; and every one who had perused it attentively must admit that more sagacious or more pregnant advice than it contained was never received. Not a single danger or disaster had since occurred of which the document did not give distinct forewarning. In his Report this eminent lawyer said, speaking of the Neutrality Act—

"By the second-section of this Act, a person enlisting himself within the United States, for foreign service, is punishable; and the person who enlists him is also punishable. This is the case of a complete enlistment within the United States; both parties to which contract are offenders. But it was apparent that if the statute stopped here, nothing would be easier than to evade its provisions. Good faith required that it should, if possible, be made to reach and prevent the mischief against which it was directed. Accordingly it is made equally an offence 'to hire or retain' any person to go beyond the limits or jurisdiction of the United States, 'with intent to be enlisted.' The offender in this case is the party hiring or retaining another to go, &c., with intent, &c.; and is complete by the fact of such hiring or retaining, whether the party so hired or retained actually go abroad and be enlisted or not. The proof thereof would ordinarily be found at hand, if found at all, and might be drawn from the other party to the contract, who could interpose no objection on the score of criminating himself, since, as to him, there is no offence except by enlistment within the United States, which the supposed case excludes. The danger

of volunteer witnesses among such people would also be very great.

The opinion of this American lawyer concluded with the following comprehensive and sagacious summary of the whole matter:—

"When we consider the necessity of something like an inspection, the unavoidable coincidence of numbers of emigrants, the malice of rejected applicants, the inducements to treachery, the natural vigilance of a certain portion of the community in such a matter; and, through them, the action of the press and the police, I think the least to be apprehended is a prosecution, whatever its results; and, in that event, the connection of any official person, however indirect or faintly traced, would more than counterbalance the advantages proposed."

Was it not, then, most arrogant and monstrous to seek to inculcate the authorities of the United States, and to blame them for taking that course which Her Majesty's Government were warned by their own lawyer, it would be the duty of the United States Government to take under such circumstances? Could anything be more extraordinary than the raising of an elaborate wrangle with the United States, in support of an interpretation of the law which was not only in direct opposition to the decisions of the American Courts of Judicature, but to the opinion of the legal adviser consulted on behalf of the British Government? It appeared to him that that opinion, if it was not at once decisive as to the matter in question, ought at least to have suggested further inquiry from the shrewd and sagacious man upon whose opinion Her Majesty's Government placed so much reliance. What, however, was the effect produced by this advice upon the mind of Mr. Crampton, and what was the opinion he communicated to the authorities in Canada, and to the Foreign Secretary at home? It was this:—

"Washington, March 11, 1855.

"A copy of the instructions addressed to your Excellency by the Secretary of State for the Colonial Department has already been forwarded to me by the Earl of Clarendon, accompanied by an instruction from his Lordship to myself to use my best endeavours to give effect to the wishes of Her Majesty's Government, and with that view to communicate with your Excellency for the purpose of obtaining your co-operation in regard to such measures as may be adopted with safety and with a scrupulous respect to the provisions of the law of the United States. Thus, though not empowered by Her Majesty's Government to raise or embody in the United States troops for Her Majesty's service—for this would be obviously impracticable in view of the existing laws of the country—I feel fully authorised to use such mea-

as may be within my power, and are legal, to meet the views of Her Majesty's Government."

Mr. Crampton further instructed the authorities in Canada—

"To inform such persons generally of the disposition of Her Majesty's Government to accept such properly qualified candidates as may offer themselves, to make them acquainted with the terms upon which the enlistments will be made, and with the places within the British dominions to which they may repair for the purpose of being enrolled, carefully abstaining, however, from entering into any agreement with such persons, or from doing anything which might be construed into 'retaining or hiring' any individual to emigrate for the purpose of enlisting in the British service. Any advance of money by Her Majesty's agents or others in the United States would constitute an infraction of the neutrality law."

There appears to have been a dogged determination on the part of Mr. Crampton, to pursue a particular course, despite the opinion which had been given to him by the American lawyer; and yet Lord Clarendon, with that legal opinion before him, and with a full knowledge of the resolution of Mr. Crampton to proceed upon his own interpretation of the law, said, in a despatch of the 12th of April, 1855, addressed to Mr. Crampton:—

"I entirely approve your proceedings as reported in your despatch of the 13th ult., with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States."

Now, accepting the interpretation which was placed upon that particular passage by Lord Clarendon himself—or by somebody else if report spoke truly—as correct, it clearly covered the whole of the proceedings subsequently taken by Mr. Crampton, and it amounted to an approval of Mr. Crampton's resolution to proceed with the enlistment, notwithstanding the advice he had received. It was, in fact, an approval of Mr. Crampton's instructions to the Government authorities in Canada to communicate to all whom it might concern in the United States the terms upon which Her Majesty's Government would receive recruits, and an approval of his interpretation of the law that an advance of money by Her Majesty's agents or others in the United States would be necessary to constitute an infraction of the neutrality law. But let the House mark what followed. At the very moment when Lord Clarendon, in answer to Mr. Crampton's despatch and enclosure, expressed this complete and comprehensive approval of that gentleman's proceedings, he was in receipt of another despatch and enclosure which he did not

choose to notice in his despatch of the 12th of April. It appeared that on the 8th of April—four days before he wrote the despatch of April 12—the Earl of Clarendon received a despatch from Mr. Crampton, communicating intelligence that one Mr. Angus M'Donald had been found out in doing the very thing that Mr. Crampton had just instructed his agents to do, and which Lord Clarendon had approved. The despatch was in these terms:—

"I have the honour to enclose an extract from a letter which I have received from Mr. Consul Barclay at New York, informing me that the person whose name is at the foot of the printed handbill therein enclosed had stated to him, that that handbill had been issued by authority—that is, I presume, by the authority of Her Majesty's Government."

He (Mr. Moore) would now ask the attention of the House to the placard referred to:—

"Highly important to the unemployed!—The British Government having concluded to form a foreign legion in Nova Scotia, and to raise several regiments for duty in the provinces, offer a bounty of £6, or 30 dollars, together with the pay of 8 dollars a month, rations, good clothing, and warm quarters, to every effective man fit for military duty, from nineteen to forty years of age; to join which are invited English, Irish, Scotch, and Germans. The subscriber (with the view of assisting those who have not the means of paying their passage) hereby gives notice that he has opened a passage-office, No. 36, Pearl-street (near Broad), where he proposes to engage passages by good vessels to Halifax, leaving twice or three times a week, for the sum of 5 dollars; or, procure through-tickets by railroad leaving every morning (Sundays excepted), and arriving at St. John's, near Montreal, that evening, which passage money must be paid him or his agent by the parties, together with the small sum of 50 cents additional for commissions, on arriving at their destination in the province. It is hoped that those effective men who are now suffering and in distress will avail themselves of this rare opportunity of bettering their condition before it is too late.—ANGUS M'DONALD."

Now that placard was very strictly worded, and was confined to a statement of the terms upon which volunteers would be received in the British province of Nova Scotia, expressly stipulating that the passage-money should be paid by the parties themselves. Yet all our consuls with one accord concurred in denouncing this discreet notification. Mr. Barclay, our consul at New York, at once wrote off to Mr. Crampton the following very curt despatch:—

"The person whose name is at the foot of the enclosed printed paper informs me that it has been done by authority. I fear it will produce a ferment."

Mr. Crampton despatched to Mr. Consul Barclay the following very disingenuous avowal:—

"I have received your letter of the 21st inst., enclosing a printed handbill signed Angus M'Donald, and informing me that the said M'Donald states to you that he has issued it by the authority of Her Majesty's Government. I have to state to you that Angus M'Donald has no authority from Her Majesty's Government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same with intent to be enlisted in Her Majesty's service."

Now, they knew perfectly well that these proceedings had taken place by the authority of Sir Gaspard le Marchant, or of Mr. Crampton himself, but that gentleman stated that they had not taken place under the authority of Her Majesty's Government, which, in a certain diplomatic sense, might be perfectly true, and that Angus M'Donald had no authority "for hiring or retaining any person in the United States" to be enlisted in Her Majesty's service. The object of Mr. Crampton in communicating these facts for the information of Mr. Barclay was not at first sight very obvious, but the communication was really intended not for the information of Mr. Barclay, but for the misinformation of the American Government. Accordingly, Mr. Crampton, with a copy of this despatch wet in his hand, rushed off to the office of the Secretary of State for the United States, and threw it triumphantly before him as an explicit declaration of the views of Her Majesty's Government with regard to the notification of M'Donald, which he admitted must certainly be regarded as an infraction of the neutrality laws. It was clear that that despatch, which was laid before the American Government, and the explanations given amounted to a distinct declaration on the part of Her Majesty's Government that the notification did constitute a "hiring and retaining" under the American law, and so Mr. Marcy understood it when he declared his perfect satisfaction with the explanation of Mr. Crampton, and his resolution at once to prosecute. Now what was the proceeding which had thus been denounced by the representative of Her Majesty's Government? It was simply that of issuing a notification for the hiring and retaining of troops in the United States; but what he asked was, what was the difference between the line of conduct pursued at that state of the proceedings and that which was afterwards adopted?

Mr. G. H. Moore

It was made perfectly clear that what M'Donald found he was unable to do in the light of day, and by regularly accredited officers, he did not hesitate to attempt to do in the dark and through the agency of German mercenaries. Well, that assertion did not rest upon conjecture. It was here proved that at the very time Mr. Crampton went to the Secretary of State's office to denounce the conduct of M'Donald, our Government was issuing another handbill of a similar character, which he would be able to show had been issued under the authority of Her Majesty's Government. Mr. Buchanan, in a despatch to Lord Clarendon, dated July 6, said:—

"Attempts have been made, since the commencement of the existing war between Great Britain and Russia, to enlist soldiers for the British army within the limits of the United States, and rendezvous for this purpose have been actually opened in some of their principal cities. When intimations were thrown out that British consuls in the United States were encouraging and aiding such enlistments, Mr. Crampton, Her Britannic Majesty's Minister at Washington, exhibited to the Secretary of State a copy of a letter which he had addressed to one of these consuls, disapproving of the proceeding, and discountenancing it as a violation of the neutrality laws of the United States. After this very proper conduct on the part of Mr. Crampton it was confidently believed that these attempts to raise military forces within the territory of a neutral nation, from whatever source they may have originated, would at once have been abandoned."

He then proceeded to show that the same efforts were still used to raise recruits in the United States, though in a different form, and that the Lieutenant-Governor of Nova Scotia had had a direct agency in those attempts to violate the laws of the United States—

"This," he said, "will appear from the copy of a notification issued by that functionary, dated Halifax, on the 15th of March last, and believed to be genuine; a copy of which the undersigned has now the honour to communicate to the Earl of Clarendon."

The proclamation was dated the 15th of March, and ran as follows:—

"The Lieutenant-Governor of Nova Scotia having been empowered to embody a foreign legion, and to raise British regiments for service in the provinces or abroad, notice is hereby given that able-bodied men, between the ages of nineteen and forty on applying at the depot at Halifax will receive a bounty £6 sterling (equal to 3 dollars), and on being enrolled will receive dollars per month, with the clothing, quarters and other advantages to which British soldiers are entitled. Pensions or gratuities for distinguished services in the field will be given. No Scotian and other shipmasters who may bring into this province poor men willing to serve H

Majesty will be entitled to receive the cost of a passage for each man shipped from Philadelphia, New York, or Boston."

Thus, while our authorities disavowed the placard which had been issued by M'Donald there was at the very time being issued, under the sanction of the Government, another proclamation containing all that was in the M'Donald notification, and to an equal degree infringing the law of the United States. Now what did Lord Clarendon say to that? It was to him something stupendous. The House would hardly believe that Lord Clarendon, with those two documents before him, declared that M'Donald's notification was very properly disavowed by the British authorities, but that the other proclamation was perfectly legal. He did, therefore, hope that the Government would do him the honour of taking the two proclamations and proving that which Lord Clarendon had asserted—viz., that M'Donald's was an illegal proclamation, and the one issued by Sir Gaspard Le Marchant from Nova Scotia perfectly in accordance with law. He thought it was right the House should know the precise stage of this question in the United States at the time the conversation, to which he had a little ago referred, took place. Mr. Marcy stated that—

"The scheme of enlistment did not significantly develop itself in our principal cities until the month of March. Immediately thereupon the United States' Government manifested the most decided, unequivocal, and public demonstration of averseness and resistance to it. Their attorney at New York was instructed to suppress enlistment in that city, and prosecute those engaged in it. On the 23rd of March he called upon the United States' Marshal for his assistance and co-operation, and addressed to that officer a letter containing a copy of the United States' law against foreign recruiting within their jurisdiction, stating that 'the Government is determined to execute the laws to their fullest extent.' In that letter he employed the following language:—'I wish you to use such means as may be at your command to prevent any violation of the laws of the United States, which are passed to preserve our neutrality. On the succeeding day this letter was published in the journals of the city of New York, of the widest circulation, and shortly thereafter in the *Washington Union* and throughout the country. Numerous arrests of persons charged with enlisting men for the British service were made in March; their examinations before the magistrates were published in the newspapers. The *Halifax Journal* (a paper said to be in the interest of the British Government) published the following:—'Brother Jonathan is making a great fuss about this foreign legion, and is using all kinds of proclamations to prevent the shipping of recruits, &c., threatening to arrest parties engaged. He is a very smart fellow, but Bluenose

is sometimes too much for him. They would like to lay hands on Mr. Howe, but he is so slippery they cannot catch him.'"

Now he would confidently appeal to the House, whether Mr. Marcy was not justified in believing that the declaration of Mr. Crampton amounted to a distinct avowal that the British Government had no participation whatever in proceedings that were scandalizing the Union; and yet Lord Clarendon, perfectly aware of all the circumstances, expressed his complete approval of all that had been done by the Lieutenant Governor of Nova Scotia. Mr. Crampton having, as he thought, set the question right with the United States' Government, posted off in hot haste to Canada, and set on foot an extensive system of enlistment within the Union, in order to effect the same process and by the same means which he had just denounced. Hireling emissaries of all kinds were employed, and the Government issued memoranda for their guidance, to enable them to make known to persons in the United States the terms and conditions upon which recruits would be received—nay, they even furnished a cipher by which such men as Stroebel, a German of doubtful reputation, might carry on a correspondence with the representative of the Queen. Let it not be said the case rested on the authority of Stroebel. The fact did not depend on his testimony. He was willing to admit that Stroebel was a man of as bad a character as even Birch of *The World*, and he presumed Lord Clarendon thought him bad enough. But the matter rested on the evidence of Mr. Crampton himself, and on his own confession, tacit or expressed. Mr. Crampton admitted having furnished Stroebel with a cipher, and with having furnished him with the following memorandum for his guidance—

"It is essential to success that no assemblages of persons should take place at beerhouses, or other similar places of entertainment, for the purpose of devising measures for enlisting, and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, inasmuch as the attention of the American authorities would not fail to be called to such proceedings."

Now, this was what Lord Clarendon called "no concealment." Why, one would suppose that these were *excerpts* from the intercepted correspondence of an Irish Whiteboy instead of instructions issued by the representative of Her Majesty. In the same way Mr. Crampton did not deny

having furnished Stroebe! with the following :—

" You were to telegraph him by this cipher instead of the usual way?—Yes, Sir.

" What was the object in giving you this cipher?—Such ciphers were given to several officers—to Mr. Smolenski, Mr. Cartensen, and men actually engaged in the recruiting business received those ciphers.

" Was it for the purpose of avoiding detection?—It was for the purpose of avoiding detection and avoiding any difficulties with the authorities here. It was to enable me to telegraph to Mr. Crampton from every place I might visit, without the people in the telegraph offices understanding it.

" Were all the officers sent on this recruiting to telegraph to Mr. Crampton as to their proceedings, and was that cipher to be used?—Yes, Sir."

There, at any rate, was the cipher, and the House must judge whether or not it was used for the purpose of avoiding detection. They would observe that the preparation of these instructions and ciphers was contemporaneous with certain explanations in another place to which he would shortly call their attention. It was scarcely a figure of speech to say that at the very moment when Mr. Crampton was drawing up the memoranda for the use of these gentlemen with hard names and bad characters, Mr. Lumley, a *chargé d'affaires*, was explaining the transactions to the American Government in a way that formed one of the most discreditable chapters of this discreditable history. Mr. Marcy called upon Mr. Lumley to express the anxiety felt by the American Government at the reported cause of Mr. Crampton's absence in Canada, and Mr. Lumley wrote the following account to Lord Clarendon of the interview which then took place :—

" At an interview which I had with Mr. Marcy I told him that he had judged rightly in supposing that Mr. Crampton's visit to Canada had reference to the enlistment question; I stated that, from the first moment this question was mooted, Mr. Crampton had shown the greatest anxiety that it should in no way lead to violations of the laws of the United States; that he believed everything that could be done might be effected legally, and that he was determined, as far as lay in his power, to prevent anything like infraction or evasion of the neutrality laws of this country. Unfortunately the very stringent nature of the provisions of these laws was not generally understood, and several persons had, on their own responsibility, acted at variance with them, and it was for the purpose of fully explaining the bearings of the law and of preventing such infractions that Mr. Crampton had undertaken his journey to the British provinces."

Be it remembered at the same time that Mr. Crampton had just impressed upon the

Mr. G. H. Moore

mind of Mr. Marcy that a precisely similar interpretation was put upon the American law by the two Governments, so that Mr. Marcy was led to believe by Mr. Lumley that Mr. Crampton was gone to Canada to explain the bearing of the law according to the American view, Mr. Crampton having really gone to explain it in a diametrically opposite sense, and to set on foot a conspiracy for the purpose of violating it. But Mr. Lumley went further. He said :—

" I then told Mr. Marcy that, as I thought it would interest him to see your Lordship's last instructions on the subject, I had brought them with me, and I said that I was certain a perusal of this paper would convince him of two things—first, that the view which had been taken and the opinions which had been expressed by Mr. Crampton on this subject were precisely such as Mr. Marcy might have expected from his knowledge of Mr. Crampton; and, secondly, that those opinions had been responded to by Her Majesty's Government in the same frank and honourable manner."

The despatch shown to Mr. Marcy was the one in which Lord Clarendon said—

" I entirely approve of your proceedings as reported in your despatch of the 12th ult., with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States."

Thus, while Mr. Marcy was led to suppose that Lord Clarendon had written to express his approval of Mr. Crampton's putting a stop to the enlistment proceedings, Lord Clarendon's real meaning was that he approved Mr. Crampton's determination to continue those proceedings. [THE ATTORNEY GENERAL: Read on.] Certainly. Lord Clarendon continued—

" The instructions which I addressed to you upon this subject, and those which were sent to the Governor of Nova Scotia, were founded upon the reports from various quarters that reached Her Majesty's Government of the desire felt by many British subjects as well as Germans in the United States to enter the Queen's service for the purpose of taking part in the war in the East; but the law of the United States with respect to enlistment, however conducted, is not only very just, but very stringent, according to the report which is enclosed in your despatch, and Her Majesty's Government would on no account run any risk of infringing this law of the United States."

Mr. Marcy expressly declared that he understood the despatch to mean that Lord Clarendon approved Mr. Crampton's resolution to stop the proceedings. Mr. Lumley, knowing what Mr. Crampton was doing at that moment, went on to say to Mr. Marcy, after showing him Lord Clarendon's despatch—

" Mr. Crampton was anxious that the United States' Government should not for a moment su

pose that a project for enlisting troops for Her Majesty's service within the United States had ever been contemplated."

Now, he did not want a lawyer to draw fine distinctions upon a question of this kind; the British people, whatever might be their faults, prided themselves upon excelling all other nations in one virtue—a love of truth, and a detestation, above every other form of mendacity, of that quibbling equivocation which "lied like truth." The hon. Member for North Warwickshire (Mr. Spooner) had frequently, amid the applause of the House, rummaged among the works of Popish casuistical doctors in order to discover some strained approval of mental reservation, of the *suppressio veri* and the *suggestio falsi*; he now called upon that hon. Member to apply the same rules by which he had tested the writings of Popish casuists to the language of the Protestant representatives of the greatest people on earth, not hidden in monkish libraries, but published in the councils of the world, and expressed in that honest English which was not made for duplicity and equivocation. Was the hon. Member prepared to countenance by his vote these mental reservations, this *suppressio veri*, this *suggestio falsi*—all those forms of equivocation, to defend which would tax the casuistry and even the conscience of an Escobar? Well, there were other proofs than those he had cited of the responsibility of Lord Clarendon. It was said that the proceedings of the British officers were judicially shown to be illegal in May, yet that during May, June and July, Mr. Crampton allowed them to continue; and for that part of the transaction, at all events, he alone must be held responsible. But that was not the case. Lord Clarendon was as well aware of the proceedings of May as Mr. Crampton, but he insisted, with perverse ingenuity, upon citing a charge delivered by Judge Kane as an authority in his favour. A man might be an accomplice after the fact as well as before it. Now, what had been the conduct of Lord Clarendon in that respect? In September the trial of Hertz took place, and the statements of Stroebel and the corroborating evidence were made public. At that stage, at all events, the complicity of Mr. Crampton was known; Lord Clarendon was aware of his having gone to Canada to organise an extensive system of enlistment, of his having employed German emissaries, of his having concocted memoranda, and carried

on a correspondence in cipher for the purpose of evading detection. Did Lord Clarendon even then express the slightest disapprobation of any one of those proceedings? On the contrary, the defence he set up against the accusations of the American Government covered every act attributed to Mr. Crampton. His Lordship did not confine himself to defence; he thought he was in a position to indulge in invective. Here was a specimen of the temper with which he replied to the charges of Mr. Marcy—

"Her Majesty's Government have no reason to believe that such has been the conduct of any persons in the employment of Her Majesty, and it is needless to say that any person so employed would have departed no less from the intentions of Her Majesty's Government by violating international law, or by offering an affront to the sovereignty of the United States, than by infringing the municipal laws of the Union to which Mr. Buchanan more particularly called the attention of the undersigned. Her Majesty's Government feel confident that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against Her Majesty's servants or their agents by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened Governments, will fail to establish any well-founded charge against Her Majesty's servants. The British Government is fully aware of the obligations of international duties, and is no less mindful of those obligations than is the Government of the United States. The observance of those obligations ought, undoubtedly, to be reciprocal, and Her Majesty's Government do not impute to the Government of the United States that, while claiming an observance of those obligations by Great Britain, they are lax in enforcing a respect for those obligations within the Union. But as this subject has been mooted by Mr. Marcy, Her Majesty's Government cannot refrain from some few remarks respecting it. The United States profess neutrality in the present war between the Western Powers and Russia; but have no acts been done within the United States by citizens thereof which accord little with the spirit of neutrality? Have not arms and ammunition and warlike stores of various kinds been sent in large quantities from the United States for the service of Russia? Have not plots been openly avowed and conspiracies entered into without disguise or hindrance in various parts of the Union to take advantage of the war in which Great Britain is engaged, and to seize the opportunity for promoting insurrection in Her Majesty's dominions and the invasion thereof by an armed force proceeding from the United States?"

It appeared extraordinary logic to say that because the American Government sympathised with Russia they could not object to the enlistment proceedings of the English Government. The answer of the American Government to those insolent observations was as complete in substance as it was unexceptionable in tone and

temper. He would not follow Lord Clarendon minutely through all the political disquisitions and legal distinctions to which he was obliged to resort for the purpose of relieving the conduct of British officers from the culpability which attached to it. They consisted, in short, of this:—The judgment of the American Government, and the judicial decisions of the American Courts of Judicature were all wrong in the interpretation of American law; and that the American Government would see by Lord Clarendon's own construction of the Statutes, with which he was good enough to furnish them, that no possible act could be committed by hiring, retaining, or enlisting, which under any circumstances constituted an infraction of the American law. Lord Clarendon's argument was this:—nothing short of a valid contract could constitute hiring or retaining; but retaining to enlist according to the British law required attestation, and that could not take place outside the British territory, and, therefore, there could be no retaining to enlist in the shape of a valid contract within the territory of the United States. That was the nature of Lord Clarendon's very peculiar argument; but his indiscretion did not stop there, for, without the slightest possible object, he proceeded to advance, on the part of the Crown, claims of the most dangerous character, which, if practically put in force, would be resisted by the Americans to the last drop of their blood, probably leading to a war, of which it would be difficult to see the termination. Lord Clarendon, *à-propos des bottes*, chose to tell Mr. Marcy that Her Majesty had the unquestionable right to call to her own standard such of her own subjects as, residing in a foreign country, were capable of bearing arms, and that Her Majesty would not thereby incur any risk of violating the territorial sovereignty of that country. ["Hear, hear!"] Yes, hon. Members might cry "Hear!" if they pleased, and, no doubt, according to the English law, Her Majesty had the right to the allegiance of any British-born subject; but if a war took place between this country and America, would they dare to hang a person found on board an American ship of war under the plea that he was a British subject; or if they did, were they not aware to what a result such an act would lead? He had said that he would refrain from quoting the evidence of any man whose word was suspected, but he could not allow to pass without protest

Mr. G. H. Moore

the conduct of Her Majesty's Government in impugning the testimony and befouling the character of their own officers and agents, and publishing to the world that men in the British service, to whom rank was given, who were confidentially corresponded with by the servants of the Government, were men of abandoned and flagitious character. Here was Max Stroebel, a captain in the Queen's service, whom Mr. Crampton corresponded with and invited to his house when it suited his purpose, and called "Dear Mr. Stroebel," but who, as soon as he produced evidence against the British Government, was immediately discovered to be a man of abandoned character. Then a compatriot was cited to prove that Stroebel was a Russian spy. One Oscar Constant was brought forward to depose to that effect; but when he gave such a character to a British officer it was at least prudent to inquire into the character of the deponent. This Oscar Constant had been befouling Mr. Crampton as much as Stroebel; and Mr. Crampton afterwards came forward to say that he was a man of infamous character also. Now, he would ask hon. Members if such proceedings were not discreditable to British diplomacy in the United States? He thought Lord Clarendon might have known by experience the danger of such proceedings. The House could scarcely have forgotten that not long ago there was in Dublin a journal called *The World*, of very infamous character, with an editor of more infamous character still. That journal was employed by Lord Clarendon as the organ of his Government for months, he might say, for years. The noble Lord was in confidential communication with the editor, and paid him a large sum out of the public funds, which, however, was afterwards replaced. Lord Clarendon had protested that, being acquainted with the world in general, and the Dublin world in particular, he was unaware all the time that this editor was a man of doubtful character. But as soon as the man took a step which was exceedingly disagreeable to the Government, he was then found out to be a person of the most flagitious character. He would tell the House what was said at the trial, which took place, by an able and eloquent advocate (Mr. Keogh), since made a Judge:—

"These are the observations which appear to me to be necessary to address to you upon this most extraordinary and unprecedented case. If be unprecedented, I hope that it will also be un"

followed by a parallel, for otherwise we must see the Government of this country degenerating from a machinery of high power and authority into a club of petty tricksters, having recourse to every implement, no matter how degraded—trailing their feet in every channel, no matter how disgusting—using it for a time against the most exalted and distinguished characters, and, having obtained the vile purpose which it served their object to accomplish, rushing into a court of justice, and attempting to rest their defence upon the malignity and infamy of a character which they took to their breasts, and cherished as long as they could obtain an object by it.”

He thought he could trace a certain similarity to the proceedings in the United States, for which the British Government were responsible, in the course pursued by the late Palmer, who impugned the verdict against him because the Attorney General argued and the Chief Justice charged in favour of the probability of poisoning by strychnine: therefore, Palmer thought that if he accomplished his end by other means he was perfectly innocent. The answer of the authorities to this reasoning was illogical, but conclusive—they hanged Palmer: and in like manner the United States were treated with equally cogent arguments; but they dismissed Mr. Crampton. He thought that there was no valid answer to the claim of the United States for the withdrawal of Mr. Crampton, yet their demand was responded to by evasion, trickery, and equivocation, and by a special pleading, insulting not only to the authority, but to the understanding of the American Courts of Judicature. He was of opinion that the English people could take no just exception to the course pursued by the American Government, or to the tone and temper in which they had vindicated their honour. But how had the British Government vindicated their honour? Even in their deepest disgrace Her Majesty's Government seemed to find relief in writing a letter to say they enjoyed it. The following was Lord Clarendon's language:—

“Her Majesty's Government are gratified at learning that the assurances contained in my note to you of the 30th of April, that no intention existed on the part of Her Majesty's Government to violate the laws, compromise the neutrality, or disregard the sovereignty of the United States, have been unreservedly accepted by the President, and that all cause of difference with respect to the question of enlistment has ceased to exist between the Governments of Great Britain and of the United States.”

The House would observe, however, that the explanations of Her Majesty's Government had not been unreservedly accepted

by the President. Quite the contrary. The course of the American Government had been pretty much that of a man who should say to another who had struck him—“I am perfectly satisfied with your statement that you did not strike me, but as I have reason to know that your hand did, I shall take the liberty of chopping it off.” Lord Clarendon's answer went on to say:—

“If the Government of a foreign country were capriciously, and without any apparent belief that it had good ground for doing so, to break off its diplomatic relations with the Minister accredited to it by Her Majesty, Her Majesty's confidential servants, answerable for maintaining the honour and dignity of the Crown, could not hesitate as to advising Her Majesty equally to break off all diplomatic intercourse with the Minister of such Government accredited to her Court. But in the present case Her Majesty's Government are bound to accept the formal and repeated declarations of the President of his belief that these officers of Her Majesty have violated the laws of the Union, and are, on that account, unacceptable organs of communication with the Government and authorities of the United States; and Her Majesty's Government cannot deny to the Government of the United States a right similar to that which, in a parallel case, they would claim for themselves—the right, namely, of forming their own judgment as to the bearing of the laws of the Union upon transactions which have taken place within the Union.”

That was as much as though he said,—“Your imputations being accompanied by a grave offence against us we pass them over, but if you had omitted the offence and confined yourselves to the imputations, the British lion would have been roused by them.” There was another passage, however, which struck him as being still more extraordinary. It was as follows:—

“I have, therefore, the honour to inform you that, however deeply Her Majesty's Government regret a proceeding on the part of the President of the United States which cannot but be considered as of an unfriendly character, they have not deemed it their duty on that account to advise Her Majesty to command me to suspend my diplomatic intercourse with you; and I have to assure you that the high personal esteem which is felt for you by all the members of Her Majesty's Government will render it most agreeable to myself to have the honour of entering into communication with you upon all matters connected with the mutual relations of our two countries. You will be certain of meeting, on the part of Her Majesty's Government, the most friendly feeling towards the United States, and the most anxious desire so to arrange all questions of difference as to reconcile the just rights and real interests of the two countries with the maintenance of those amicable relations the preservation of which is of such great importance to both.”

It was possible, he thought, to find a parallel for the above also in the biography

of Lord Clarendon. Upon one occasion a gentleman, in the course of a confidential correspondence with Lord Clarendon, spoke of Sir William Somerville, the Irish Secretary, as a "deliberate liar," and upon that he received a communication from Lord Clarendon's private secretary to the following effect:—

"Sir,—Having, by desire of the Lord Lieutenant, communicated to Sir William Somerville your letter in which you made use of the phrase, 'deliberate liar,' I am directed to inform you that a retraction of these words is demanded. If, therefore, you write me a line to that effect, and will send a confidential person here at 3 o'clock to-morrow, he shall receive the sum of £100, for which I am credited."

Now, Her Majesty's Government certainly had not offered £100 to the American Government, but they sent them that which Falstaff declared to be "worth a million"—they sent them their love. The genius, it appeared, which had brought forth the revelations of Birch and the last United States Blue-books, was again at work, and not a word was to be uttered, not a syllable spoken, for fear of disturbing that divine parturition. He was told that it would be injurious to the public service to call attention to such proceedings as these at a time when the Minister was engaged in negotiations with a government which he had already offended; but, on the contrary, he (Mr. Moore) maintained it was a manifest injury to the public service that Lord Clarendon should be permitted to enter into a negotiation with a Government whose foot had already been on his neck. It was not long ago—during the present Parliament—that two Ministers of zeal and fidelity had been made the scapegoats for the faults of the entire Government, and was it now to be permitted that the Earl of Clarendon should make scapegoats of the Crown, of Parliament, and of the entire people? The question which the House had to decide was a very simple one. Lord Clarendon had been engaged in a very petty intrigue, as he was fond of doing, in America; he had been found out, of course, as he always was; he had persisted in his blunder, as was his custom; but, on the present occasion, unfortunately, he had discredited, not only his own character, but his country's also. The House had to decide, therefore, whether they would approve Lord Clarendon's proceedings in this matter, and whether they would accept as their own, in the name of the English people, Lord Clarendon's responsibility and his chastisement;

Mr. G. H. Moore

and in pronouncing an opinion upon that question they must remember that they would be judging, not Lord Clarendon, but themselves.

CAPTAIN BELLEW seconded the Motion.

Amendment proposed,

"To leave out from the word 'That' to the end of the Question, in order to add the words:—the conduct of Her Majesty's Government, in the differences that have arisen between them and the Government of the United States, on the question of enlistment, has not entitled them to the approbation of this House," instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

THE ATTORNEY GENERAL said, he could not help thinking that the hon. Member for Mayo (Mr. G. H. Moore) would have exercised a sounder discretion had he yielded to the appeals which had been made to him to postpone, for the present, the discussion of the question. The significant delay which had elapsed before the Motion had found a seconder must, he (the Attorney General) apprehended, in some degree have shaken the hon. Member's confidence in the expediency of the course which he had taken. It was but on Friday last that the First Minister of the Crown had intimated that, in his opinion, this question could not be discussed consistently with a due regard to the public interest, and it had always been usual, even in times when party feeling ran highest, to treat such a statement, made at a period of public emergency, with proper consideration. The hon. Member for Inverness-shire (Mr. H. Baillie), who might be said to have a vested interest in this question, since he had given notice at an early period of the Session of his intention to call the attention of the House to it, acting in concert with those among whom he sat, had thought it proper and necessary to postpone his motion; but the hon. Member for Mayo, uninfluenced by the appeals made to him by Members representing constituencies of all others most interested in the maintenance of a good understanding with the United States, had declined to follow that example; therefore the responsibility of having provoked this discussion must rest with the hon. Gentleman. The hon. Member for Mayo told the House that the question was one which ought to be treated judicially, but had the hon. Member himself treated it judicially? It was impossible not to see that the hon.

Member was animated by no other feeling than one of personal animosity towards Lord Clarendon. [M. G. H. MOORE:—No, no!] The hon. Gentleman denies that, but he (the Attorney General) had never heard a speech which led so strongly to such a conclusion. Was it judicial, was it just, was it even common fairness, to drag into this debate allusion to a scandalous newspaper, to refer to some obscure transactions, the import and history of which not a single Member of the House was acquainted with? Was it arguing the question judicially, was it even in good taste, to compare Lord Clarendon to the malefactor who but a few days ago had paid the penalty of his crimes on the scaffold? He never remembered to have seen a notice of Motion so frequently altered as this had been. The hon. Member for Inverness-shire had modified the terms of his Motion from time to time, to suit the varying circumstances as they arose, and the hon. Member for Mayo himself had twice altered his Motion. As it stood now it was certainly a most strangely worded Motion. It did not ask the House to express its disapprobation of the conduct of the Government, but merely to declare that Her Majesty's Ministers were not entitled to the approbation of the House. That, he believed, was a new form of moving a vote of censure; but as the hon. Member meant it for a vote of censure as such it must be taken. Let it not be forgotten, however, that the responsibility for this discussion, as he had previously stated, rested with the hon. Gentleman. He (the Attorney General) had risen thus early in the debate, because it appeared to him that the question involved legal principles and considerations which it was most essential should be fixed as early as possible, and to which the hon. Gentleman did not seem to have given the attention which they deserved. The British Government was charged with having, by itself or its agents, infringed, first, international law; and, secondly, the municipal law of the United States. He joined issue with those who made this charge upon both those points; but it was necessary to see, first, what was the international law upon the subject; and, secondly, what was the municipal law. Now, the international law on this subject had been left very vague and uncertain by most publicists who had written upon it. It was very true that Vattel laid it down that by the law and polity of nations no State could

recruit its forces from the subjects of another without the consent of the latter. He would not for a single moment question that proposition, although he doubted whether the authority of Vattel would be sufficient to sustain a proposition of any great importance. Notwithstanding Vattel was generally received as an authority upon such subjects, yet where he could not ground himself upon the opinion of the jurists he was neither profound nor precise. Nevertheless, he would take the proposition which he had quoted as it was laid down by this author. He (the Attorney General) admitted that one State could not enlist the subjects of another to serve in its army and navy without the acquiescence of the State of which they were the subjects. But then he must go back to another proposition, which was, that that assent or acquiescence might not only be expressed by treaty, but might be implied; as for instance, by a State permitting its subjects to enlist into the forces of another country; because, if a State gave to its subjects permission to enter the service of foreign Governments, such permission necessarily carried with it, by implication, a permission to other foreign Governments to avail themselves of the services of the persons to whom that permission had been extended. Now, that being established, it was necessary to see what the municipal law of the United States prohibited and what it permitted the subjects of the Union to do. In that law you might find the measure and extent to which the Union enforced or relaxed its rights of sovereignty over its subjects. The municipal law of America upon this subject differed most essentially from our own. The law of Great Britain claimed and enforced the most complete, absolute, and unqualified authority over its subjects. It not only prohibited them from enlisting, or others from enlisting them upon its own territories, but it prohibited them from enlisting beyond the territories of the United Kingdom; it prohibited them from serving in the military or naval forces of any other Sovereign or people, without the express consent of the Sovereign. Therefore, if a British subject were to enlist beyond the territories of Great Britain, he would be liable to the penalties of the law; and Great Britain would have reason to complain of any State which should propose to its subjects to violate the municipal law which was binding upon them. But how stood the case

with regard to America? Was the law of that country equally stringent? Certainly not. The American law said to its citizens, "You shall not enlist within the territories of the United States." It said to other persons, "You shall not enlist citizens of the United States within the territories of those States, neither shall you contract with them to go beyond the precincts of the States there to enlist;" but it did not prohibit American subjects, when once beyond the boundaries of the United States, from enlisting in the service of any foreign State or potentate, nor did it prohibit them from serving such foreign State or potentate. Now, that was a most material and important distinction, of which the hon. Gentleman had entirely lost sight. [Mr. G. H. MOORE: Not at all.] The hon. Gentleman intimated that he had not, but so far as he (the Attorney General) had heard, he appeared to have done so. If he had not lost sight of it, at all events, he had certainly forgotten it in his speech. The distinction undoubtedly existed; and he (the Attorney General) could not suppose that it was the result of accident. Perhaps the American law was so limited that, while the neutrality of the American territory and the responsibility of its Government should remain intact, that tendency which the right hon. Gentleman the Member for Buckinghamshire (Mr. Disraeli) had the other evening very happily characterised as a tendency to expansion, and which he represented as not only the natural but the legitimate policy of America, might remain unchecked. It might be that it was intended to leave the citizens of America, who were not quite so patient of control and restraint as the subjects of our own country, free to expand and to give vent to that energy of character which particularly distinguished them; but that the American law permitted the citizens of the Union, so long as they did not enlist within its territories, to serve foreign Powers was undoubted and unquestioned. The world has a grave instance and illustration of this in what was passing at the present moment. Not only did the law of America permit its citizens to engage in the service of a foreign State engaged in hostilities with another which was not at war with America, but it allowed them to enlist and take arms in support of a faction in the civil war in Kansas. The existing Government *de facto* of Nicaragua had been established with the aid of the arms

The Attorney General

of American citizens, who, without the sanction of their Government, except so far as it might be implied from the existing state of the law, and from what that Government had done since, had established a Government in that country, and at this moment maintained it. So far was the American Government from seeking to punish those citizens—so far was it from complaining that the State or the Government of Nicaragua, by engaging their arms, had violated the sovereign rights of America, that it actually recognised the Government which had been established and subsisted entirely by the assistance of American subjects. That being the state of the law, he would briefly state the facts to which it was to be applied. One fact which ought never to be lost sight of was, that it was never intended in this scheme of recruiting to enlist American subjects properly so called. At the time when the Foreign Enlistment Act was passed there were in the United States large bodies of persons who were anxious for military service. They were of two classes—British subjects who had emigrated to America, and who, being disappointed in their expectations, were anxious to return to their own country, and a vast number of political refugees whom the revolutionary movements of 1848, and, above all, the counter-revolutionary movements, had driven into exile, together with other foreigners who had served in the Schleswig-Holstein army, and who, on the disbandment of that army, had found refuge in America. With regard to the first class of persons, it was quite clear that, if they desired to enter the British service, so long as we did not violate the law of America, no man could say that we had not a perfect right to enlist them. The law of England was that no British subject could throw off the allegiance which he owed to the Government of England. His country or his allegiance he could not put off. A principal maxim of law was "*Nemo potest exuere patriam.*" A man might expatriate himself, he might change his atmosphere, he might stand on another soil, and look at another heaven, but he could not put off his allegiance. Therefore, if you had, as was the case at this time, offers from British subjects who had not found in America the home which they had expected, who had not put off that attachment to their native land, which he believed a British-born man could no more put off than the law would allow him to

put off his allegiance, and who, when they heard that the old country was at war and needed the services of her sons, naturally felt an inclination to enter into her army, you could, without violation of the municipal law of the United States, take them into your service, and there could be no consideration, moral, social, or political, which could interfere with your doing so. The other body of men, the refugees, were not American subjects, in the proper sense of the term. They had taken refuge in America, but did not desire to remain there. They had fallen upon a period when there was great distress in that country. At the conclusion of the year 1854 trade and commerce were in a state of universal stagnation, employment was scarce, wages were low, and provisions dear. Those men could not find employment; they had been used to the army, and preferred military service to any other occupation: they, therefore, proposed—and proposed in considerable numbers—to take service in the army of this country. The whole question was this:—Could we, consistently with the laws of the United States, take those persons into our service? If we violated the laws of the United States, we were responsible; but, considering that the laws of the Union allow persons who owe allegiance to it to take foreign service beyond its boundaries, he said that there was nothing in the law of nations which prohibited us from receiving those persons into our service. We assuredly were not bound to carry the obligations of American citizens one whit beyond that which their own laws imposed. We were entitled to take that as the measure of the extent to which the American Government desired to carry its sovereign rights. We had a right to look at the municipal law; and if it did not forbid the enlistment, we were justified in proceeding with it. But, then, it was said that we had violated the law by enlisting men for the service of Great Britain upon American soil. He thought he could show that this had never been done by those for whom the British Government were responsible. He would take that opportunity of calling the attention of the House to the original instructions sent out by Her Majesty's Government. Those instructions were sent out on the 16th of February, 1855, while Mr. Sidney Herbert was at the Colonial Office, and were to be found in the following despatch from Mr. Sidney Herbert

to Sir Gaspard le Marchant, Governor of Nova Scotia:—

“ I transmit to you a copy of the Foreign Enlistment Act, which has been passed in Parliament in the present Session; and, in connexion with it, am anxious to call your immediate attention to the following subject:—Her Majesty's Government have received communications from the British Minister at Washington, and also from some of the Consuls in American cities, which lead them to suppose that a considerable number of German and other European foreigners, now resident in the United States, are ready and disposed to enlist under the provisions of this Act. In particular, it has been stated that there are, scattered in different parts of the Union, men who have seen service with the Schleswig-Holstein army, and who have, therefore, the advantage of a certain amount of military training, and who would willingly take up arms again under the British standard. But supposing these statements to be well founded, the men in question could not be enlisted for British service on American soil with due respect to the laws of the United States as a neutral Power; and considering how uncertain it is whether parties who might thus offer themselves would turn out fit for enlistment, it is scarcely practicable to invite them over to this country with the chance of rejection. Under these circumstances, it has occurred to Her Majesty's Government that it might be possible for men who should represent themselves to the Consuls, or other British authorities, in the United States, as willing to serve, to proceed to Halifax, if a depôt, of which public notice would be given, in Nova Scotia, could be established in that city, under your inspection, for the reception of recruits for a foreign legion, where they might be examined, and, if found fit for service, enlisted, and either sent to this country or formed on the spot into a battalion. It is also stated that a large number of persons in the United States, who are British subjects, would be willing to take service in the British army if an opportunity were afforded them of enlisting. It would be necessary to keep the latter class of recruits (if such should offer themselves) quite distinct from foreigners, and they might, perhaps, be willing to enlist for existing regiments of the line.”

Those were the first instructions sent out to the official personages connected with this country in the United States, and without troubling the House with the various despatches from the Colonial Office and the Foreign Office, he would assert that in every one of those despatches the most distinct and emphatic instructions were to be found to take the utmost care and caution not to infringe the municipal law of that country. Now he would ask what was the view of the Americans upon their own law and their own rights? The hon. Gentleman had put the question as if the fact of a depôt having been formed at Halifax for the reception of recruits had never been brought to the knowledge of Mr. Marcy.

Now, he did think that the hon. Gentleman, acting in a judicial character, as he intimated to the House it was his intention to do, ought to have stated the whole case. There was the positive statement of Mr. Crampton in two despatches, that he had communicated distinctly and clearly to Mr. Marcy the fact that a depôt had been established in Nova Scotia for receiving recruits from the United States, nor had this fact ever been denied by Mr. Marcy or any one else. In his despatch, dated Feb. 22, to Lord Clarendon, Mr. Crampton said:—

“ I told him (Mr. Marcy) that I utterly opposed and discountenanced any violation of the neutrality law. I also told him that numerous applications were made to me by persons here wishing to join our army, and that my answer had been, that I could not enlist them here, and that if they wanted to become British soldiers they must go to British territory to be enlisted. He made no sort of objection to this, and entered into no discussion as to its being inconsistent with international law; on the contrary, he said that anybody might go who chose—that half the United States might go if they chose, were, I think, his very words; and he repeated the same thing to Mr. Lumley during my absence. I certainly, never dreaming then, as I do not believe now, that any violation of international law was involved, so long as the municipal law was observed, did not enter into any discussion of such a question with him. He did not show the least inclination to enter on the subject of the recruitment at all; and I thought that I understood his motive to be the natural one, that having, on the one hand, shown a determination to sustain the law, and, on the other, a disposition to leave every citizen or resident of the United States free to exercise their undoubted right, or not, as they chose, he did not wish to seem to take part, either one way or the other, in either recommending or discouraging them from doing so in favour of either of the belligerents.”

That statement was borne out by Mr. Lumley, who repeated the same thing to Mr. Marcy, while Mr. Crampton was absent in Canada. The hon. Member had spoken of Mr. Crampton and Mr. Lumley as two mean, dishonourable, and miserable culprits, to whose statements not one tittle of credence was to be attached. Now, he certainly did not think that that was a fair view of the conduct and character of those gentlemen; and when he found both those gentlemen asserting that they had distinctly brought to the attention of Mr. Marcy the fact that the British Government had established a depôt at Halifax for receiving men for enlistment, he gave implicit belief to that statement. [Mr. GLADSTONE: Where does Mr. Crampton state that?] That was in page 172; but Mr. Crampton stated the

The Attorney General

same thing in his despatch dated March 3, 1856, where he said—

“ I told Mr. Marcy, on the 22nd of March, that numerous applications had been made to me by persons in this country who wished to join the British army, and that my answer had been, that I could not enlist them here, or hire, or retain them here, without violating the law, and that, consequently, they must go into British territory, there to be enlisted. Mr. Marcy made no objection to this, but remarked that any person might go who chose, and then reiterated the expression he had just before used, of his intention strictly to enforce the Neutrality Law. To this I, on my part, had no objection to make; on the contrary, the view it disclosed entirely agreed with that I had myself submitted to Mr. Marcy on showing him a letter I had written to Mr. Barclay disapproving of the proceedings of a Mr. Angus M'Donald, because I thought that those proceedings would, or might, be taken to constitute a violation of the Act of 1818.”

Now, it was clear that, unless Mr. Crampton had so far forgotten his honour and truth as to fabricate that statement, Mr. Marcy, on the 22nd of March, 1855, was made fully aware of the mode in which the British Government were carrying out the Enlistment Act.

MR. MILNER GIBSON: Mr. Crampton says the reverse. He says, in the very same despatch—

“ It is perfectly true that I did not enter into any details of the means which were to be adopted by Her Majesty's Government to render available the services of those who tendered them to us in such numbers.”

MR. GLADSTONE: Where did you find any statement of Mr. Crampton to that effect?

THE ATTORNEY GENERAL said, he had already read two despatches to that effect; and the despatch of the 7th November contained the same statement in substance, if not in words. The substance of his communication to Mr. Marcy was, that he had had various offers from persons who were desirous of entering into the British service, that he had told them they could not be enlisted there, but that the British Government had opened an office or a place at Halifax, where those persons were to go from all places of the United States. Well, that being the state of things, upon what ground did the American Government make their complaint against the British Government for having infringed their laws? They did not deny anywhere that the state of the American law was as it had been represented—namely, that, although no one could be enlisted on the soil of the United States, there was nothing to prevent the American

citizen from going beyond the boundary to another country to enlist there. No one denied that; but the American Government said the British Government had violated their "sovereign rights" by attempting to enlist their subjects at all. The answer of the British Government was, that they were not infringing or violating the sovereign rights of the United States if they availed themselves of the permission which the law of the United States gave. There was nothing in that law which prevented an American citizen from going to another country for the purpose of serving a foreign State. If that were permitted to the United States' subject, who was thus released from his obligation to give an unqualified and entire allegiance to his country, it could not be matter of complaint against the British Government that they were willing to accept the services which the subjects of the United States' Government were willing to render. The doctrine of sovereign rights could not certainly apply where the British Government had to do exclusively with British subjects, over whom they had rights which had the force of law; and it would hardly apply to persons who were the subjects of other States, and not of America, who were only temporarily in America, and did not intend to make it their permanent place of abode—who had not taken root in the soil, and only made it their temporary place of asylum, with the intention of returning to Europe. If the permission to go to the territory of another Power to enlist were allowed to American citizens, *à fortiori*, it must be allowed to the *quasi* subjects of other States and to British subjects; and, therefore, the British Government were entitled to take those persons and enlist them if they were willing. But it was said the British Government were not content with enlisting them beyond the boundaries of the United States, but that they violated the law by enlisting, or rather engaging them to enlist, in that territory. Now, upon what testimony did that assertion rest? It was denied in the most emphatic and indignant terms by Mr. Crampton and the British consuls. What was the evidence upon which the American Government persisted in saying that, although Mr. Crampton denied his complicity, he was involved in these transactions? It rested upon the evidence given on the trial of Hertz. Was that evidence worthy to be believed—was it evidence to which that

House would attach the slightest importance, confronted as it was by the positive statement of Mr. Crampton and the consuls, on their words of honour, that it was a tissue of falsehood and misrepresentation? The trial was a very remarkable one, and he approached it with a sense of the difficulty in which he found himself placed, because it was almost impossible to speak of it in those terms of moderation which the present state of affairs required. That that trial was set on foot and was conducted by men bitterly hostile in spirit to this country no one could doubt. He did not for a single moment wish to infer that those were the sentiments of the whole American authorities, and he entirely believed they were not the sentiments of the great body of the American people. That that trial was conducted in a spirit of most bitter animosity towards England, no one could doubt. Mr. Van Dyke, the United States' District Attorney, acting under the immediate direction of Mr. Cushing, the United States' Attorney General, opened the case rather as a case against Great Britain and the British authorities than against the individuals accused, spoke in terms of the greatest disparagement of Great Britain, adverted to the war in which we were then engaged, and showed his sympathies were not with the Allies, by alluding with evident satisfaction to our losses, and in terms of sneering sarcasm and contempt to our presumed deficiency in military skill. Witnesses were produced, and who were they? They were the Mr. or Captain Stroebel, whom the hon. Member (Mr. G. H. Moore) did not doubt to be a man of the most infamous character, others of very much the same stamp were examined to fill up the minuter details of the alleged transactions, and Mr. Hertz, who, being convicted, made a confession and implicated Mr. Crampton. The statements of a man who was an approver, and of another man who had just been convicted, both of whom the American Government would have found, if they had taken the slightest trouble to inquire, to be men of infamous character, were taken as true, notwithstanding the strong and emphatic denial of Mr. Crampton and the other gentlemen affected by those statements. Nay, more, the American Government sent here, not an authentic report of the trial, but the report which was prepared for a newspaper—*The Pennsylvanian*—remarkable for its bitter animosity against this country, the editor of which

was examined on the trial, and was attempted to be foisted as a juryman upon the panel. There was not the slightest chance of the jury finding any other than a verdict against Hertz. It was an indictment against, and, by implication, a conviction of, the British Government; and this gentleman, who was witness upon the trial, whose report was sent by the American Government as a report of the trial, did not scruple to speak of Great Britain in the following terms. They are somewhat amusing:—

“England for centuries has been bullying and bribing the world; her insolence is astounding. In the Pacific, in the Atlantic, on the Isthmus, everywhere, that haggard voluptuary, Great Britain, who has been so long drunk with the blood of other nations that she now reels and totters with her own inanity, glares upon us with her red eyeballs, and puts us at defiance.”

Those were the terms with which the editor of *The Pennsylvanian* introduced to the world a report of the trial on which he himself had been a witness, and which was adopted by the American Government. [“Hear, hear!”] He heard a right hon. Gentleman say “Hear” on the other side, but he thanked God the British press was not yet lowered to such wretched ribaldry as that, and he hoped it never would be. The hon. Member for Mayo seemed inclined to give implicit credit to the witnesses. [Mr. G. H. MOORE: What? I? I deny it.] Then, to cast imputations upon the honour, veracity, and character of the gentlemen whom the hon. Gentleman impugned, without evidence, was totally unwarrantable and totally unjustifiable. The case made by the American Government was based upon the statements of these persons. It turned out that Mr. Stroebel was a person of bad character; he had served in the Danish army; he had held some rank in that army; he volunteered to perform service in the English army; he proposed to raise men; he said many of his countrymen were ready at once to follow him. Then came Hertz, who said the same. Both expressed the greatest interest in the cause of the Allies, and the utmost zeal for the service of England, and expressed the utmost anxiety to return to Europe. There was abundant evidence now that Stroebel was a spy in the employ of Russia, and that Hertz was a swindler and a man of no character. But those facts were not in the possession of the British authorities in America when those persons offered their services. It might be true,

The Attorney General

so far as their statements were concerned, that they violated the municipal law of the United States. In their anxiety to get men and establish a claim to be rewarded for their zeal and assiduity, they might possibly have transgressed the law of the United States. Whether they did so with the honest purpose of serving the British Government, or whether they were preparing schemes of treachery and fraud in the interest of Russia, or of those who were hostile to Great Britain, was a grave question, which he would not stay to discuss; but when, in answer to the statements of such men as those, he had the positive assertion of Mr. Crampton and the British Consuls that those statements were wholly and entirely destitute of the slightest shadow of foundation upon truth, he asked the House whether they thought that, under those circumstances, the British Government would have been justified in making scapegoats of Mr. Crampton and the consuls by recalling them, and marking them with the stigma of Government disapprobation? He thought no one would go along with the hon. Member for Mayo in believing that, in spite of their instructions, those gentlemen did violate the municipal law by causing enlistments, or engagements to enlist, on the territory of the United States; and he submitted that the British Government, in accordance with the instructions which were framed, were justified in accepting the services of their own subjects, and of Germans, Poles, Hungarians, or Italians, if they accepted those services by enlisting them beyond the precincts of the United States. There was no evidence that any acts were done in contravention of the local laws of the United States, except the evidence of those men, who could not be believed; and against it they had the positive denial of gentlemen, men of honour, and Englishmen. It was all very well for the hon. Gentleman, who wanted to make out a case, if he could, against those parties, to take up the despatches, and, instead of reading them in a manly, straightforward manner, read them with a sneering, sarcastic tone, meant to imply that he did not believe a word of them, but in that view he was sure the House would not follow the hon. Gentleman. He submitted that the question was, whether Her Majesty's Government would have been justified in acting merely upon the view taken by the American Government on the evidence of Hertz and Stroebel, in spite of the emphatic denial of Mr. Cramp-

tion and the consuls. Eliminated from the mass of verbosity with which, from one side or the other, it had been entangled, that was really the case which was brought before the attention of the House. He had cautiously abstained from saying one word upon the conduct of the American Government except as regarded that trial. At the same time he might say, without any intention of giving offence, that the spirit and the tone in which the American authorities had considered the correspondence which had taken place, and considered and answered the despatches of Lord Clarendon upon the subject (especially when the attempts of Lord Clarendon were always of a most conciliatory character), were not such as might have been expected from a State which desired, with sincerity, to maintain friendly relations with England. Whether their conduct was to be attributed to that cause to which the right hon. Gentleman the Member for Buckinghamshire (Mr. Disraeli) adverted the other evening—a conviction on the part of the United States that Great Britain would not view with favour or submit unhesitatingly to that expansive tendency which was said to characterise the territorial policy of the American Government, was more than he could undertake to say; but of this he was persuaded, that any permanent rupture of the friendly relations between the two countries would be fatal to the best interests of both, and deeply injurious to the cause of progressive improvement throughout the whole civilised world. It became us as the older, as not the least powerful, and looking to what was going on in various parts of America, he thought he might also add, as not the least united of the two nations, to evince a spirit of manly moderation and dignified forbearance. We were never better prepared for war, and therefore ought to be the more inclined to peace. Our power had now been proved. Our renown was not of yesterday; our glory was not of recent date; our prowess had been established by sea and by land in every quarter of the universe. We could afford to be conciliatory ourselves, and to exhort others to conciliation. Nor was it possible to misinterpret the motive with which we might address the American people in these persuasive accents:—

*"Neu patriæ validas in viscera vertite vires.
Tuque prior, tu parce, genus qui duois Olympo;
Projice tela manu, sanguis meus."*

It was in that spirit of harmony that the Government now entered on the present discussion. There was no denying that its tendency was to take at a disadvantage both the Ministry and those absent men whose honour and veracity had been impugned, but who did not enjoy the opportunity of defending themselves. Remembering that, though this attack was directed against Her Majesty's Government, the interests of those persons were deeply implicated—nor theirs alone, but what was of far greater moment, those also of two mighty nations, it was to be hoped that the House would view this question without reference to party considerations, and in a calm dispassionate spirit, suitable to its dignity, its gravity, and its importance.

SIR FREDERIC THESIGER said, that although the House was naturally impatient of any debate likely to degenerate into a legal discussion, yet he felt it his duty to offer some remarks on the legal considerations which his hon. and learned Friend the Attorney General had stated to be involved in this interesting and most important question. With respect to the Motion itself, he did not think that the hon. Member for Mayo was to be censured for not having withdrawn it; for no particular facilities were offered by the occupants of the Treasury bench for bringing forward a vote of censure on the Government; and if the House were to wait until certain negotiations, never explained, but only darkly shadowed forth, had come to a conclusion, it would be in the power of the Government to prevent discussion altogether by protracting negotiations till the time was gone when discussion would have any life or interest. He fully concurred with his hon. and learned Friend the Attorney General on the necessity of approaching this important question in a spirit of moderation; deprecating, therefore, the infusion of party spirit into such a debate, he admitted that their deliberations should be characterised by a calm and judicial tone, and he sincerely hoped that nothing that he might say would create irritation or embitter the relations between this country and the United States. It was essential to consider first, the position in which we stood; and, secondly, the circumstances that had compelled us to occupy that position. In the dismissal of our accredited Minister, and in the withdrawal of their authority from twelve of our consuls, we had received from the Government of the United

States one of the strongest proofs of dissatisfaction that one nation could offer to another. Was that decided step on the part of the American Government to be justified or not? Was there any blame imputable to the agents of the American Government for the course they had pursued in acting in so abrupt and summary a manner? If so, our path was clear and open; for, as Lord Clarendon had remarked, no discredit could attach to the acknowledgment of unquestionable wrong. On the other hand, it was important to consider whether the conduct of the agents of the British Government had been such as not to render them obnoxious to censure. If their conduct was not fairly liable to censure, a gross and gratuitous insult had been offered to the British nation. When the Foreign Enlistment Bill was under discussion in that House, several wise and prudent persons anticipated that it would be very likely to lead us into a collision with foreign Powers, and warned the Government to that effect. During the whole of that debate, although questions were put as to the countries from whence recruits were likely to be obtained, no suggestion as to the probability of our recruiting our foreign legion from the United States was ever made. If such a suggestion had been offered, the Government would have been warned to be particularly careful in their transactions with America. That country had previously intimated that it would observe a strict neutrality during the war, and unfortunately there had arisen with the American Government circumstances of misunderstanding which would probably have rendered it wise on the part of the British Government either to abstain altogether from drawing supplies of men from that quarter, or, at all events, to proceed with the utmost caution and circumspection. In attempting to procure recruits from the United States, two circumstances should have been carefully considered—first, the municipal law of the United States; secondly, the rights which the Americans possessed under the international law. The first was a positive enactment, the latter had no written code except where treaties intervened, but was founded on justice, good faith, and mutual forbearance between nations. Under the municipal law of the United States, an Act of Congress, passed in 1818, made it a misdemeanor, punishable by fine and imprisonment, for any one to hire or retain

Sir Frederic Thesiger

another to go out of the territory or jurisdiction of the United States for the purpose of being enlisted into the service of a foreign Power. Unfortunately, the Government kept its view too closely and specifically directed to the provisions of that municipal law. He (Sir F. Thesiger) thought they had regarded its provisions, not so much to see how they could obey them, as to ascertain how they could accomplish an object which was prohibited by the law without bringing themselves strictly within the letter of its provisions. The hon. and learned Gentleman the Attorney General had taken what appeared to be an extraordinary view of international law as applicable to this particular question—the one adopted by the Government, and which had been fatal to their proceedings in this matter, and one which he (Sir F. Thesiger) ventured to say was unfounded. There was no doubt, as it appeared to him, that although an individual might evade the provisions of an Act of the Legislature of the United States, and keep himself clear of the penalty attaching to an infraction of the letter of the law, yet that if a Government were systematically to endeavour to attain an object which was prohibited by law, and at the same time to keep its agents clear from falling within the provisions of that law, such conduct was contrary to that good faith and forbearance which should characterise the intercourse between nations. Unfortunately, however, the view which had been submitted to the House by the hon. and learned Gentleman the Attorney General was that upon which Mr. Crampton had acted, and which had been endorsed by Lord Clarendon. At page 176 of the Blue-book Mr. Crampton would be found writing:—

“It did not appear to me to be a thing to be supposed, that any free nation intended to enforce, as a restraint upon the liberty of its inhabitants, any more of the general law of nations than it had embodied in its municipal law. That municipal law appeared to me to have been enacted for the very purpose of defining and deciding how much of the general right of restraining the egress of its citizens from its territory the lawgiver intended to enforce.”

At page 264 Lord Clarendon said—

“Now, in reply to this, the undersigned begs to observe, that the policy of a nation in regard to its internal arrangements must be sought for in the laws of that nation; that what those laws forbid, it must be understood to be the policy of the State to prohibit; and that what those laws do not forbid, it must be understood to be the

policy of the State to allow. In every State, whatever may be its form of Government, there is a sovereign power; that sovereign power may impose upon the subjects or citizens of such State what duties, obligations, and restrictions it may think fit; and it is a necessary conclusion that when the sovereign power puts a limit to its enactments, whether of obligation or of prohibition, it means to leave its subjects or citizens free in regard to all matters not within the enactments of the law."

Now, with very great deference to such high authorities, he (Sir F. Thesiger) must say there was great confusion of ideas in such reasoning broached in the manner it had been. The municipal law was intended for the internal regulation of a country, and applied merely to the subjects of the country. It could not attach to any foreign State, nor to any person not a subject of that particular country, and, therefore, although it might bind or give freedom to the citizens of that State, it could have no effect or influence over international law or the intercourse between nations. For instance, there was no doubt that Americans had an undoubted right freely and voluntarily to quit their country; that opinion had been laid down by Judge Ingersoll, but that fact did not touch the question of international law. If a Government were to lend itself to plans for seducing or enticing persons to leave the United States, then the municipal law might not be violated in terms, but there would be a breach of international law, and there could be no doubt that it would be a violation of that frank intercourse which ought to subsist between nations. Supposing for instance the Americans had established a manufacture in their country which was of great public advantage, no doubt all the manufacturers in a body could, if they pleased, quit the United States and transplant their skill to another soil; but could it be said, because they had a right voluntarily to quit their country, that therefore another Government, if it should think it advantageous to do so, should attract such persons to its country—would it not commit a breach of international law if it held out inducements in the way of higher prices for labour? [Mr. CHRETHAM: It is done every day.] It might be done every day, but nevertheless he considered it a gross violation of international law, and contrary to the spirit of justice and good faith which should prevail in the intercourse of nations. He therefore could not agree with the hon. and learned Gentleman the

Attorney General in the opinion that, because the municipal law of the United States permitted persons to leave that country, even to enlist in the service of other countries, therefore it would be no infraction of the sovereign rights of the American nation for another Government to entice and persuade persons to leave the country for the purpose of enlisting in a foreign legion. It was that mistaken view of international law which had led to those proceedings which were, as he considered, justly blamable, and which had brought this country into a position of humiliation—a consequence attributable entirely to the course pursued by Her Majesty's Government. Taking the principles he had enunciated as a guide, he would just notice what the Government of this country had done with respect to the question of enlistments in America. There was, undoubtedly, great difficulty in tracing precisely in the Blue-book what acts were done by those who were the recognised and authorised agents of the British Government. There was abundant information as to the acts of the unauthorised and unaccredited agents, but there were also occasional glimpses of light, showing what was done by those who were clothed with authority, and sufficient to show that they were pursuing a system that was highly reprehensible. There were some facts which could not be disputed. There was no doubt that there was a recognised system organised within the territory of the United States for the purpose of obtaining men to leave those States and to proceed to Canada prior to coming to this country. There were agents employed, money was forthcoming, and a depôt was established at Halifax with the sanction of the Lieutenant Governor. The hon. and learned Gentleman the Attorney General had expressed himself strongly, perhaps justifiably so, in regard to the course adopted at the trial of the parties who were accused of violating the neutrality laws. It was not his (Sir F. Thesiger's) intention to vindicate the character of Mr. Hertz or of Captain Stroebel, neither did he assume that the evidence given by those persons at the trial was perfectly correct; but there was other evidence. There was the admission under Mr. Crampton's own hand, that he employed those two persons as his agents to assist him in procuring enlistments; there were the instructions given to them among other agents, and there was the cipher prepared, with which they,

in common with other agents, were made acquainted. Such being the persons employed, and such the machinery set in action to obtain the object which Her Majesty's Government had in view, he would next see if he could trace in those proceedings any indication of a conviction on the part of the Government that what was being done was perfectly lawful, and that the machinery employed was not such as to afford the American Government any just ground of complaint. It appeared that at a very early period of the business, before the system had come into operation, Mr. Crampton prudently took the advice of a very able lawyer in order to ascertain how far the neutrality laws would affect the proceedings which it was proposed to institute for the purpose of procuring recruits from that country. Anything more strongly worded for the purpose of inducing caution on the part of our Minister than this legal opinion could hardly be imagined; and the House should bear in mind that this document, together with his letter to Sir Gaspard le Marchant, was sent by Mr. Crampton in his despatch of the 12th of March to Lord Clarendon; and that our Foreign Secretary was in possession of both when he wrote his letter of approval on the 12th of April. In his letter to Sir Gaspard le Marchant Mr. Crampton said—

"I have furnished your agent with a copy of this opinion for his information and guidance, and I have directed him to confine his operations in the first instance to making inquiries as to the desire which may exist among the inhabitants of the eastern cities of the United States to enter Her Majesty's service, to inform such persons generally of the disposition of Her Majesty's Government to accept such properly qualified candidates as may offer themselves, to make them acquainted with the terms upon which the enlistments will be made, and with the places within the British dominions to which they may repair for the purpose of being enrolled, carefully abstaining, however, from entering into any agreement with such persons, or from doing anything which might be construed into 'retaining or hiring' any individual to emigrate for the purpose of enlisting in the British service."

Lord Clarendon, having been informed of the course intended to be adopted, wrote to Mr. Crampton on the 12th of April:—

"I entirely approve your proceedings, as reported in your dispatch of the 12th ult. with respect to the proposed enlistment in the Queen's service of foreign and British subjects in the United States."

Considering that Lord Clarendon was cognisant of the opinion of the eminent American lawyer, clearly indicating that the

Sir Frederic Thesiger

neutrality law of the United States "would be held to reach every case of payment, expenditure, or other valuable consideration, however ingeniously devised," he would have acted a far wiser part had he wholly abstained from the attempt to procure men in the United States, and warned his Minister that, the course he proposed to pursue not being open, candid, or straightforward, but secret and underhand, Her Majesty's Government did not feel themselves justified in sanctioning such a proceeding. The Earl of Clarendon, indeed, alleged that he enjoined on Mr. Crampton above all things to avoid concealment from the American Government; but he (Sir F. Thesiger), having looked carefully through the correspondence without discovering any trace of such an injunction, would feel obliged to any hon. Member following him in debate who should point out the despatch in which it was contained. If, however, any such instruction was given, it was certainly not observed by Mr. Crampton. Lord Clarendon was, at all events, informed at a later period of the secret steps taken to procure recruits, and the fatal mistake made by our Government throughout the transactions was, that the directions which they issued to their agents were confined to the avoidance of any infringement of the municipal law, and entirely overlooked the broader question on which the Americans were likely to feel extremely sensitive, namely, the bearing of our attempts at enlistment upon their rights of sovereignty. At an early period, and before the system was in full operation, Mr. Angus M'Donald published advertisements, and established an office for the purpose of providing passages to Halifax to persons willing to go thither and enlist themselves. It was said that the American Government were from the earliest date aware of the formation of a dépôt at Halifax, and of the measures taken to secure recruits; but there was evidently some misapprehension on that point. No communication had been made to the American Government that could lead them to believe that such proceedings as those described in Mr. Crampton's letter were either contemplated or in progress. On the 22nd of March Mr. Crampton wrote to Consul Barclay to disavow the conduct of Mr. M'Donald—conduct which Consul Barclay had previously characterised as likely "to produce a ferment," and such as would cause the Government of the United States to interfere and put a stop

to the proceedings. It was very remarkable that, in the course of the conversation in which Mr. Crampton told Mr. Marcy that persons had applied to him relative to enlistment for the foreign legion, but that he had told them the thing could not be done without infringing the law, unless they first left the States and afterwards enrolled themselves, Mr. Crampton showed Mr. Marcy his letter to Consul Barclay in reference to Mr. M'Donald's proceedings; and that Mr. Marcy, on his part, declared in his subsequent despatches that he understood Mr. Crampton, when he communicated the contents of this letter to him, to have intended to disavow the participation of the British Government in any improper acts of recruiting. Mr. Marcy, ignorant of the underhand scheme in progress at the time, might very well have answered, as he was represented to have done, that persons were at liberty to quit the States for the purpose of being enlisted. The House ought carefully to consider the steps that were taken at an early period, because they showed that the course adopted by our Minister and sanctioned by his Government was perfectly unjustifiable, and had brought on us all the indignity and humiliation to which we had been since exposed. Mr. Grant, writing to Mr. Crampton, in February, 1855, said—

"My influence in this State enables me to raise within ten days (and in secret) a regiment of rifles, comprising the ordinary number (486), the majority of whom are born subjects of Great Britain, and who are only waiting the moment when they may be allowed to show that they, although living in a foreign country, are not insensible of the claim that their native country has on them. The men are ready, but what is wanted is proper sanction being (secretly) given to their proceedings. Throughout the whole of this enterprise we have borne strictly in mind the necessity there exists of not infringing the neutrality laws of the United States, and the men would depart in squads at their own expense, ostensibly travelling as citizens of the United States on their own account to Canada."

Another letter from Major Rakow stated—

"To avoid any interference by the United States' authorities, the soldiers are to be shipped as passengers to some port, and there to be put on rank and file."

The answer sent by Mr. Crampton to these offers of enlistment was somewhat singular. It was this :—

"Sir,—I have received your letter of the —, and I regret to say that I am not in possession of the information with which you desire to be furnished. I have received no instructions from Her Majesty's Government which would authorise me

to take steps for the enlistment of men or the engagement of officers for the British army."

There were other letters from a Mr. Jones and a Mr. Reynolds, the replies to which were important. On the 23rd of March, 1855, Mr. Crampton wrote to Mr. Jones as follows :—

"I have received your letter of the 22nd, and I have to inform you in reply that, although I have no reason to doubt that Her Majesty's Government would accept of the service of such foreigners as may be desirous of joining it, no rendezvous for enlistment has been opened by the authority of Her Majesty's Government at any place in the United States, nor has any person been authorised to hire or retain any individual to go beyond the limits of the United States for the purpose of being so enlisted. This would constitute an infraction of the neutrality laws of the United States (*vide Act of Congress, 1818, s. 2*), and Her Majesty's Government, however desirous to obtain recruits for the British army, are still more anxious that the laws of the States, with which Her Majesty is at peace, should be respected.

"Should you desire information as to the terms, &c. upon which foreigners may be enrolled under the provisions of a late Act of Parliament, I shall have pleasure in furnishing you with such information as is in my possession at any time you should call at Her Majesty's Legation in this city."

A similar answer was sent to Captain Zankish, and would be found in page 189. The letter of Lord Clarendon, of the 12th of April, approving the proceedings with regard to enlistment, arrived in the United States about a fortnight afterwards, and a very important correspondence then took place between Mr. Crampton, Mr. Lumley, and a Mr. Martin, to which he wished to call the attention of the House. Mr. Martin, in a letter dated the 26th of April, 1855, said, that circumstances which he thought purely providential at that important juncture would, he believed, enable a proper person, invested with proper authority, "to raise a force of 5,000 men and upwards of as brave and determined troops as ever marched to a battle-field under the British or any other flag on the face of the earth." Mr. Martin further said—

"I think that, for the sum of £6 to £10 per man, the number above alluded to—namely, 5,000 and upwards—can be raised or delivered in any of the West Indies or North American colonies, or even in Malta, without any additional expense to the Government."

Mr. Lumley answered—

"I am desired by Mr. Crampton to acknowledge the receipt of your letter of the 26th of April, and to inform you that he has no doubt that the services of all those persons whom you describe as being anxious to join the forces of

Her Majesty will be gladly received, and that the feelings which actuate you will be gratefully acknowledged. At the same time, Mr. Crampton wishes me to impress upon you the very stringent and comprehensive nature of the neutrality laws of the United States, according to which it is not only illegal to enlist or recruit the subjects of any State within the United States for the service of a foreign Power, but equally an indictable offence to hire or retain any individual to emigrate for the purpose of enlisting in foreign military service against a Power with whom the United States' Government is at peace. It is essential, therefore, that nothing should be done which would be inconsistent with the supposition that the persons you refer to leave the United States as voluntary emigrants, for as such alone could they legally leave this country for a foreign State."

Mr. Martin then wrote a most remarkable letter to Mr. Crampton, in these terms:—

"I presume that you will have noted through the public papers that a person, called Captain Walsh, has been trying here for some time past to engage a number of Germans for the Foreign Legion, under the head of labourers for the St. Andrew's and Quebec Railroad, but who has not yet succeeded in getting a single man off. . . . If it should appear to you desirable to carry out this object in a safe and proper manner, it will be necessary to place matters upon such a footing as will at once enable the parties engaged in it to negotiate their drafts to meet at least a part of their unavoidable expenses, which must be very considerable, as from all the information I can obtain upon the subject from captains of British ships and others acquainted with the emigration and passenger business, it will cost at least £6 15s. to £7 10s. per man, under the best and most economical arrangement that can be devised to convey them from here to Halifax, and many of them will require assistance to get here from the interior. It would, therefore, be necessary to make at least £6 available to the party undertaking the business, leaving say £2 10s. as a contingent surplus to meet any deficit that might arise from accident or inefficiency of any portion of those sent forward, which, however, I do not apprehend, leaving £8 as the maximum amount chargeable to Government."

Mr. Martin then proposed the following form of notice, and asked whether it could be legally published:—

"The A 1 passenger ship — will sail for Halifax, on Tuesday, June 5, and will be followed by a ship of the same class on each succeeding Tuesday throughout the summer, or so long as freight and passengers will offer to justify their continuance."

Mr. Lumley's answer was—

"I have delayed replying to your letter of the 12th instant, until I could obtain the opinion of an eminent American lawyer on the subject to which it relates, and I now beg to inform you that there cannot be the slightest objection to your inserting the notice (copy of which was transmitted in your letter) in any newspaper you may think fit. I am also able to inform you that the collector at New Orleans has no legal autho-

Sir Frederic Thesiger

rity to prevent ships clearing out with emigrants for Halifax, or any other part of the British dominions, even should those persons have declared their intention of enlisting on reaching British territory. Any person may, of his own free will, emigrate for the purpose of enlisting; but it is illegal to engage a person within the United States to enlist in the British army. . . . I must therefore warn you that the act of giving assistance to persons in the interior to enable them to emigrate might possibly be considered in the light of an infraction of the law. There is, however, no doubt that the captains of ships affording a free passage to such emigrants will be reimbursed for the expenses of any number of able-bodied men who may enlist on reaching Halifax."

[An hon. MEMBER: Read, read!] He (Sir F. Thesiger) was quite ready to read the next sentence. It was—

"From the enclosed extract, containing an account of a late trial at Philadelphia, you will perceive that Judge Kane has even expressed the opinion 'that the payment of the passage from this country of a man who desires to enlist in a foreign port does not come within the Act.'"

He must remind his hon. and learned Friend who had cheered that, when an application was made to Judge Kane to release Hertz, Stroebel, and others, the Judge appeared, according to the representation of Mr. Lumley, to have expressed his opinion that the payment of passage-money would not be illegal; but when Judge Kane tried Hertz and other parties he changed his opinion, and the view taken by Judge Kane at one time was therefore neutralised by his opinion at another period. With very great submission to Judge Kane or any other Judge, he (Sir F. Thesiger) would venture to say that if any person paid the passage-money of another to a foreign State, for the purpose of enlistment, that would as nearly approach "hiring and retaining" as anything he could possibly imagine, and would come not only within the spirit, but, in his belief, within the very letter of the law. He desired to call attention to these circumstances to show the secret proceedings of the parties with respect to enlistment, and he would now read to the House the instructions issued by Mr. Crampton to all the agents whom he employed:—

"It is essential to success that no assemblages of persons should take place at beer-houses or other similar places of entertainment for the purpose of devising measures for enlisting, and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, inasmuch as the attention of the American authorities would not fail to be called to such proceedings, which would undoubtedly be regarded by them as an attempt to carry on re-

recruiting for a foreign Power within the limits of the United States; and it certainly must be borne in mind that the institution of legal proceedings against any of the parties in question, even if they were to elude the penalty, would be fatal to the success of the enlistment itself."

His hon. and learned Friend the Attorney General had argued that the steps taken in the United States for the purpose of procuring recruits were perfectly legal, and that there had been no infringement of the law; but from the proceedings of the parties, and their endeavours at concealment, it was perfectly clear, they evidently thought that they were doing what they could not justify. That was, in his opinion, the strongest proof that the parties engaged in those proceedings did not adopt the view of the case which had been ingeniously pressed on their behalf—in the first instance by Mr. Crampton and Lord Clarendon, and afterwards by his hon. and learned Friend the Attorney General. It had been said that Mr. Marcy was aware of all that had been going on, and that he acquiesced in the proceedings, at least by his silence. Now how did that appear? The hon. Member for Mayo had compared the proclamation of Sir Gaspard le Marchant with the proclamation of Mr. Angus M'Donald, and no answer had been given by the hon. and learned Attorney General to that part of the case. When the hon. Member for Mayo referred to those proclamations the Attorney General cheered, no doubt because he intended to insist that the proclamation of Sir Gaspard le Marchant having been issued at Halifax, and within Her Majesty's territories, was perfectly legal. He would, however, call the attention of the Attorney General to the fact that the Halifax proclamation must have found its way to the United States, for the proclamation of Mr. Angus M'Donald, which was dated five days later than the proclamation of the Lieutenant Governor of Nova Scotia, offered terms precisely similar to those proposed by Sir Gaspard le Marchant. In Mr. M'Donald's proclamation, he stated that the British Government offered "a bounty of £6, or 30 dollars, together with the pay of 8 dollars a month, rations, good clothing, and warm quarters, to every effective man fit for military duty, from nineteen to forty years of age, to join which are invited English, Irish, Scotch, and Germans." The proclamation of Sir Gaspard le Marchant stated that—

"The Lieutenant Governor of Nova Scotia having been empowered to embody a foreign

legion, and to raise British regiments for service in the provinces or abroad, notice is hereby given that able-bodied men, between the ages of nineteen and forty, on applying at the depot at Halifax, will receive a bounty of £6 sterling, equal to 30 dollars, and on being enrolled will receive 8 dollars per month, with the clothing, quarters, and other advantages, to which British soldiers are entitled."

There could be no doubt, he apprehended, that the proclamation of Sir Gaspard le Marchant had found its way to the United States, and had been copied by Mr. Angus M'Donald. Now, did Mr. Marcy receive any intimation from Mr. Crampton as to the proceedings for the enlistment of troops? An attempt had been made to induce the House to suppose that Mr. Marcy was informed of these clandestine and secret modes of enticing and alluring men to leave the United States for the purpose of enlistment; but in his letter to Lord Clarendon of the 7th of May, Mr. Lumley stated that he read to Mr. Marcy a copy of Lord Clarendon's despatch of the 12th of April, and he added—

"Mr. Marcy appeared much pleased with this communication, and said that, as the question was one which had engaged the attention of the United States' Government, he should be very glad to be able to show this despatch to the Cabinet. . . . Mr. Crampton was anxious that the United States' Government should not for a moment suppose that a project for enlisting troops for Her Majesty's service within the United States had ever been contemplated."

Now he would confidently ask any candid and dispassionate person whether it was possible, after such a communication was made by Mr. Lumley, that Mr. Marcy could entertain any other idea than that the project of enlistment was entirely abandoned, and that Her Majesty's Government had no intention of procuring men from the United States? That was the state of things when, at last, the attention of the American Government was called to the proceedings upon the subject of the enlistments, and on the 6th of July, 1855, Mr. Buchanan addressed Lord Clarendon on the subject. He (Sir F. Thesiger) most earnestly invited the attention of the House to the course of that correspondence. He would not weary them with many extracts; he had with much trouble taken different passages from the letters, which would be sufficient; and if there were any portions of those letters which would qualify the passages to which he was about to refer, he should feel indebted to any hon.

Member who would point them out. On the 6th of July, 1855, Mr. Buchanan called the attention of Lord Clarendon to these proceedings. He said :—

“ The disclosures made within the very last month, upon a judicial investigation at Boston (a report of which is now before the undersigned), afford good reason to believe that an extensive plan has been organised by British functionaries and agents, and is now in successful operation in different parts of the Union, to furnish recruits for the British army. The plain and imperative duties of neutrality, under the law of nations, require that a neutral nation shall not suffer its territory to become the theatre on which one of the belligerents might raise armies to wage war against the other. If such a permission were granted, the partiality which this would manifest in favour of one belligerent to the prejudice of the other could not fail to produce just complaints on the part of the injured belligerent, and might eventually involve the neutral as a party in the war.”

And, then, in conclusion, he said—

“ In view of all these considerations, the President has instructed the undersigned to ascertain from the Earl of Clarendon how far persons in official station under the British Government have acted, whether with or without its approbation, either in enlisting persons within the United States, or engaging them to proceed thence to the British provinces, for the purpose of being there enlisted; and what measures, if any, have been taken to restrain their unjustifiable conduct ?”

That was the distinct and specific demand on the part of Mr. Buchanan. How, he would ask, was it met by Lord Clarendon, in his letter of the 16th of July, 1855?—

“ The undersigned, &c., has the honour to acknowledge the receipt of the note which Mr. Buchanan, &c., addressed to him on the 6th inst., respecting attempts stated to have been recently made to enlist within the limits of the United States soldiers for the British army. The undersigned must, in the first instance, express the regret of Her Majesty's Government if the law of the United States has been in any way infringed by persons acting with or without any authority from them; and it is hardly necessary for the undersigned to assure Mr. Buchanan that any such infringement of the law of the United States is entirely contrary to the wishes and to the positive instructions of Her Majesty's Government.”

The House would, probably, allow him to point out this fact—that although it had been unqualifiedly asserted by Lord Clarendon that he had made the most frank expression of regret on the part of the British Government for any violation of the American law, yet he (Sir F. Thesiger) believed he was right in saying that the only passage to which Lord Clarendon could refer in the whole of his correspondence in support of that assertion was the passage

Sir Frederic Thesiger

to which he (Sir F. Thesiger) had just referred, and that was not an expression of regret. It was an expression of regret “ if the law of the United States had been in any way infringed by persons acting with or without any authority from the British Government;” and he went on to assert that the British Government had an incontestable right to recruit Her Majesty's army in the British North American possessions, whether from subjects of the Queen or foreigners, who were willing to enter Her Majesty's service. Therefore, so far from expressing regret at the course which had been pursued, hon. Members would perceive that Lord Clarendon justified himself; and from first to last never abandoned the position—that he had a right to do what he had done, and that the American Government had no just cause of complaint. He went on to say—

“ Her Majesty's Government do not deny that the acts and advertisements of these self-constituted and unauthorised agents were in many instances undoubted violations of the law of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed.”

Lord Clarendon had previously said that—

“ Her Majesty's Government, desirous of availing themselves of the offers of these volunteers, adopted the measures necessary for making generally known that Her Majesty's Government were ready to do so, and for receiving such persons as should present themselves at the appointed place in one of the British possessions.”

Lord Clarendon admitted that the acts of those unauthorised and advertising agents were clearly illegal, but he did not condescend to tell what were the particular acts of the accredited and authorised agents of the Government which rendered them different from the acts of the advertising and unauthorised agents. Again, Lord Clarendon, in his letter of the 16th of July, gave no answer to the question put to him by Mr. Buchanan, namely—

“ How far persons in official station under the British Government had acted, whether with or without its approbation, either in enlisting persons within the United States or engaging them to proceed thence to the British provinces for the purpose of being there enlisted, and what measures, if any, had been taken to restrain their unjustifiable conduct ?”

That letter of Lord Clarendon, being a course very unsatisfactory, Mr. Marcy, on the 5th of September, 1855, wrote again and distinctly stated what it was of which the American Government complained :—

"The President perceives with much regret that the disclosures implicate you (Mr. Crampton) in these proceedings; he has therefore preferred to communicate the views contained in this note to Her Majesty's Government through you, Her representative here, rather than through our Minister at London. The information in his possession does not allow him to doubt that yourself, as well as the Lieutenant General of Nova Scotia, and several civil and military officers of the British Government of rank in the provinces, were instrumental in setting on foot this scheme of enlistment, have offered inducements to agents to embark in it, and approved the arrangements for carrying it out, which embraced various recruiting establishments in different cities of the United States, and made liberal provision for funds to be used as inducements for persons residing therein to leave the country for the purpose of enlisting in the British military service."

And he then returned to the demand which he had previously made, and said—

"The object of this note is to ascertain how far the acts of the known and acknowledged agents of the British Government, done within the United States, in carrying out this scheme of recruiting for the British army, have been authorised or sanctioned by Her Majesty's Government."

Now, there was a clear categorical demand, which deserved a distinct and unequivocal answer, and he must express his opinion that he for one exceedingly regretted that Lord Clarendon so far forgot the courtesy which was due to the American Government, in the correspondence that was taking place between them, as to write the letter of the 27th of September, 1855, in which he made the most offensive remarks on the American Government, and, instead of answering the question which had been put to him, retaliated upon the Americans, and told them that they themselves had been guilty of a breach of the neutrality laws. He said—

"Her Majesty's Government have no reason to believe that such has been the conduct of any person in the employment of Her Majesty, and it is needless to say that any person so employed would have departed no less from the intentions of Her Majesty's Government by violating international law, or by offering an affront to the sovereignty of the United States, than by infringing the municipal laws of the Union, to which Mr. Buchanan more particularly called the attention of the undersigned. Her Majesty's Government feel confident that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against Her Majesty's servants or their agents by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened Governments, will fail to establish any well-founded charge against Her Majesty's servants."

He then went on to say—

"The British Government is fully aware of the obligations of international duties, and is no less mindful of those obligations than is the Government of the United States. The observance of those obligations ought, undoubtedly, to be reciprocal, and Her Majesty's Government do not impute to the Government of the United States that, while claiming an observance of those obligations by Great Britain, they are lax in enforcing a respect for those obligations within the Union."

Now, that passage was not the less offensive because it was indirect—because it was a mere insinuation, and not a direct charge; and he certainly did exceedingly regret that Lord Clarendon should have so far forgotten himself as to have written a letter of that description in answer to what must be considered as a just demand, on the part of the American Government, because he felt that this had led to all the differences, and to all the bitterness and ill-feeling which existed between the two countries, and which were so deeply to be deplored. On the 13th of October, 1855, Mr. Marcy wrote a letter to Mr. Buchanan, in which he, first of all, replied to the remarks which had been made with respect to a breach of neutrality by the United States, and denied the imputation cast upon him in Lord Clarendon's letter, and then proceeded to say—

"Supported as this Government is in the charge made against British officers and agents of having infringed our laws and violated our sovereign territorial rights, and being able to sustain that charge by competent proof, the President would fail in due respect for the national character of the United States, and in his duty to maintain it, if he did not decline to accept as a satisfaction for the wrongs complained of Lord Clarendon's assurance that these officials were enjoined a strict observance of our laws, and that he does not believe that any of them have disregarded the injunction. This Government believes, and has abundant proof to warrant its belief, that Her Britannic Majesty's officers and agents have transgressed our laws and disregarded our rights, and that its solemn duty requires that it should vindicate both by insisting upon a proper satisfaction. The President indulges the hope that this demand for redress will be deemed reasonable, and be acceded to by Her Britannic Majesty's Government. This Government has indicated the satisfaction which it believes it has a right to claim from the British Government in my despatch to you of the 15th of July last."

That despatch, of the 15th of July, was not delivered to Lord Clarendon until the 2nd of November. His Lordship has stated that Mr. Buchanan withheld it because he considered the British Foreign Secretary's despatch of July 16 entirely satisfactory, and would settle all the disputes which had arisen. He (Sir F.

Thesiger) thought that Lord Clarendon went too far in attributing entire satisfaction to Mr. Buchanan; but whether Mr. Buchanan was satisfied or not was wholly immaterial, the question being whether the American Government was satisfied. Now the House would observe that the American Government asked originally for much less satisfaction than they afterwards demanded. In page 121 they required Her Majesty's Government to "take prompt and effective measures to arrest their proceedings and to discharge from service those persons now in it who were enlisted within the United States, or who left the United States under contracts made here to enter and serve as soldiers in the British army." He ought, just in passing, to say that Lord Clarendon declared before that letter was received he had sent out orders to stop the recruiting. What, however, did Lord Clarendon reply to the above moderate demand? Why, the noble Lord wrote that letter of the 16th of November, 1855, in which he justified his whole proceedings, and contended that he had a right to do everything he had done:—

"It appears to Her Majesty's Government that, provided only that no actual 'recruiting' (that is, enlisting or hiring) takes place within the United States, British officers who, within the United States' territories, might point out the routes which intending recruits should follow, or explain to them the terms upon which they would be accepted, or publish and proclaim such terms, or even defray their travelling expenses, or do similar acts, could not be justly charged with violating such sovereign territorial rights. It has been legally decided in the United States that the payment of the passage from that country of a man who is desirous to enlist in a foreign port does not come within the Neutrality Laws of the United States; and that a person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission. It would indeed be a violation of territorial right to enlist, and organise, and train men as British soldiers within the United States, and whether or not this has been done by British authority is the question involved in the first of Mr. Marcy's charges; but it is no violation of such right to persuade or to assist men merely to leave the United States' territory, and to go into British territory, in order, when they arrive there, either to be voluntarily enlisted in the British service or not, at their own discretion."

Then, in page 128, his Lordship continued with the following extraordinary passage—

"It only remains for me to state that no enlistment in the British service is valid without attestation, and that according to British law, a recruit cannot be attested in a foreign country,

Sir Frederic Thesiger

nor even in the British colonies, without a specially delegated authority for that purpose. No binding contract could, therefore, be made with any man within the United States; promises might be so made, but any money given to men to enable them to repair to places beyond the United States' territory for the purpose of being enlisted would be advanced at a risk. Nevertheless, if it can be shown that there are persons now in the foreign legion who have been enlisted or hired in violation of the United States' law, as well as of the British law, Her Majesty's Government will be prepared to offer them their discharge, and to give them a free passage back to the United States if they choose to return thither."

Now, that was Lord Clarendon's view of what this nation had a right to do with regard to the territory of the United States. That was his assertion of British right, and he (Sir F. Thesiger) thought Mr. Marcy might very well say, "Although you have discontinued your system of recruiting, yet you keep these principles in reserve for some future occasion, and, therefore, we are bound in self-defence to meet them and to deny that you are correct in the view you have presented to us." Could anything be more extraordinary than the principle which Lord Clarendon laid down. In effect it was this—"No recruiting in the English service is valid without attestation; no attestation can take place in a foreign country; but if it can be shown that any persons have been enlisted in violation of the United States' law as well as of the British law, I am willing to discharge them." It was perfectly illusory for Lord Clarendon to offer such an explanation as a satisfaction to the American Government. It was true that an explanation had been given by Lord Clarendon in his letter to Mr. Dallas, and that explanation he would here quote—

"The undersigned must also further observe that Mr. Marcy, in the same despatch, has misconceived the meaning of an expression used by the undersigned in making an offer, above referred to, that any man who might have been enlisted within the United States should be immediately discharged and sent back. The reference there made to British law was merely intended to indicate that if persons had been enlisted under the circumstances supposed, such enlistment would have been at variance with British as well as with American law; but the undersigned did not mean that respect would not be paid, in the discharge of men, to the principles of the law of the United States alone, should that law appear to have been violated in a single case."

Now, if that was the meaning of Lord Clarendon, he was very unhappy in expressing it previously. Certainly the introduction of the allusion to the necessity

of attestation was calculated to mislead, and he (Sir F. Thesiger) could not comprehend why it should have been introduced except for the purpose of showing that there were no persons to whom the obligation of giving a discharge could apply, and, therefore, that Lord Clarendon could not comply with the demand made upon him. Now, he would ask was that interpretation a right one? Why, Lord Clarendon, in this letter to Mr. Dallas, stated this in so many terms—

“The satisfaction,” he observed, “which the Government of the United States after mature deliberation had demanded had either been spontaneously and by anticipation granted, or had been shown to be impracticable, because there was no man in the British service whose enlistment, or contract to enlist, had, to the knowledge of Her Majesty’s Government taken place in the manner specified by Mr. Marcy in his despatch of the 15th of July; and whose discharge, therefore, could form part of the satisfaction indicated by Mr. Marcy.”

Could anything be considered more illusory than the course adopted by Lord Clarendon for the purpose of meeting the demands for satisfaction made by the American Government? And was anything more natural than that, his Lordship having refused to give the extremely moderate satisfaction thus required, the American Government should then rise in their demands? For one moment he would call the attention of the House to the observations made by Mr. Marcy upon Lord Clarendon’s arguments with reference to the enlistment question. In his letter of the 28th of December, 1855, Mr. Marcy said—

“This Government does not contest Lord Clarendon’s two propositions in respect to the sovereign rights of the United States; first, that in the absence of municipal law, Great Britain may enlist, hire, or engage, as soldiers, within the British territory, persons who have left the United States for that purpose. This proposition is, however, to be understood as not applying to persons who have been enticed away from this country by tempting offers of reward, such as commissions in the British army, high wages, liberal bounties, pensions, and portions of the Royal domain, urged on them while within the United States, by the officers and agents of Her Majesty’s Government In this view of the question as to the rights of territory, irrespective of municipal law, Lord Clarendon is understood to maintain that Her Majesty’s Government may authorise agents to do anything within the United States short of enlisting, and organising, and training men as soldiers for the British army, with perfect respect to the sovereign rights of this country. This proposition is exactly the reverse of that maintained by this Government, which holds that no foreign Power whatever has the right to do either of the specified acts with-

out its consent. . . . Lord Clarendon, it is true, uses language in other parts of that despatch which seems to admit that enlisting into foreign military service within the United States, or hiring or retaining persons to leave the United States to enlist into such service, would be a violation of the United States’ neutrality law; but this admission amounts to nothing when taken in connection with his definition of the terms enlisting, hiring, or retaining. In his view, as I understand it, each act must be the result of a valid contract. If the persons are not bound when they have left the United States to perfect their enlistment, then there has been no violation of the United States’ law.”

Then, pursued Mr. Marcy, according to Lord Clarendon’s argument, the English recruiting agents were at liberty to—

“Penetrate every part of the country, open rendezvous in any city, publish handbills, ornamented with the emblem of England’s royalty, presenting every inducement for enlistment which a United States’ officer engaged in recruiting troops for his own Government could offer; and yet, in doing all these things, they would comply with the stringent instructions so often repeated to them, and now so much relied on for their justification—not to violate the United States’ Law of Neutrality.”

Well, then, unhappily the American Administration, owing to the course taken by Her Majesty’s Government, found themselves compelled to demand the removal of Mr. Crampton. Now, he would ask the House whether Lord Clarendon, first of all, in that offensive letter which he wrote in answer to the question, whether the acts of the authorised agents of the Government were approved by them; and, next, in refusing the moderate satisfaction which the United States demanded, had not driven the American Government into a position which rendered it absolutely necessary that they should take steps to vindicate their sovereign rights? It appeared to him that Lord Clarendon might have prevented the indignity which had thus been cast upon us. He might have admitted that the course pursued by our agents was wrong, and on that ground he might have withdrawn the Minister and removed the Consuls. At the same time, if he thought they had been faithful servants, he could have provided for them in some other way. Unfortunately, Lord Clarendon adopted a different course. On the 30th of April, 1856, he wrote to Mr. Dallas a letter, in which he adverted to the application that had been made to disavow the acts of the agents of Her Majesty’s Government. He said—

“With respect to the first part of this demand Her Majesty’s Government deny that any illegal

proceedings were, so far as they knew, committed by its officers or authorised agents, and, therefore, they have none to disavow, and no officers or agents to deal with as offenders."

Then, again—

"With respect to Mr. Crampton, the undersigned has to state that Mr. Crampton positively and distinctly denies the charge brought against him; he declares that he never hired, or retained, or engaged a single person within the United States for the service of Her Majesty, and that he never countenanced or encouraged any violation of the law of the United States."

With regard to the consuls, Lord Clarendon stated that they actually denied the charge against them that they had violated the laws of the United States, and he went on to express the earnest hope that these explanations and assurances would prove satisfactory, and effectually remove any misapprehension which might have existed. The House would, however, observe that Lord Clarendon distinctly recognised and sanctioned the acts of Mr. Crampton and the consular agents, saying he had nothing to disavow, and denying that any acts had been committed but those particular acts of which he had been informed. The House would doubtless bear in mind that when that letter was written, on the 30th of April last, to Mr. Dallas, Lord Clarendon was in possession of the whole of the correspondence that took place in February and March of 1855, in which it was proposed that there should be secret proceedings for the purpose of procuring recruits safely, without alarming the United States; and that, therefore, Lord Clarendon was perfectly aware of what had been done from beginning to end. They knew, also, what were Lord Clarendon's views so late as the month of May, for on the 27th of that month he was reported to have said—

"There would have been no shortcoming on the part of Her Majesty's Government if we had seen reason to adopt a contrary course, or no hesitation to deal severely with any agent who should so far have forgotten his duty and been unmindful of his instructions as to violate the laws of the United States; but being convinced that that had not been done, and having in our possession the means of proving to the United States that it was not done, I think nobody will require of us to sacrifice our agents and to purchase a conciliation with the United States by doing that which would be both shabby and dishonourable."

On the 27th of May the American Government wrote in these terms:—

Sir Frederic Thesiger

"The unequivocal disclaimer by Her Majesty's Government of any intention either to infringe the law or to disregard the policy, or not to respect the sovereign rights of the United States, and their expression of regret, 'if, contrary, to their intentions and to their reiterated directions, there has been any infringement of the laws of the United States,' are satisfactory to the President. The ground of complaint, so far as respects Her Majesty's Government is thus removed. But the President extremely regrets that he cannot concur in Lord Clarendon's favourable opinion of the conduct of some of Her Majesty's officers, who were, as this Government believed, and after due consideration of all which has been offered in their defence, still believes, implicated in proceedings which were so clearly an infringement of the laws and sovereign rights of this country."

Lord Clarendon was told that America was dissatisfied with the British Government's agents by reason of their having acted contrary to the reiterated instructions of their "own Government." Why, he knew perfectly well that they had acted with the perfect sanction of the British Government from beginning to end of the whole transaction. Lord Clarendon said that it would be both shabby and dishonourable to sacrifice those agents who had only been faithful in performing their duty. And yet he accepted the above statement from the American Government without remonstrance against its interpretation of the conduct of the Minister and the consuls. The manly, straightforward course would have been to say, "Do not mistake—do not suppose you are dismissing agents who have disregarded their duty to us; they have not disobeyed the reiterated instructions they have received, but, on the contrary, they have faithfully performed everything we required of them, and therefore we ought also to fall under the same censure, and suffer with them." Now, that undoubtedly would have been a straightforward course, but one was almost pained to read the answer returned by Lord Clarendon. He said—

"Her Majesty's Government retain the high opinion which they have ever held of the zeal, ability, and integrity of Mr. Crampton, and of the earnest desire by which he has ever been animated to avoid all great cause of offence to the Government to which he was accredited."

Again,—

"If Her Majesty's Government had been convinced, like the Government of the United States, that Her Majesty's officers had, in defiance of their instructions, violated the laws of the United States, Her Majesty's Government would have removed those officers from the posts which they held."

Then he proceeded to say,—

"But, in the present case, Her Majesty's Government are bound to accept the formal and repeated declarations of the President of his belief that these officers of Her Majesty have violated the laws of the Union, and are on that account unacceptable organs of communication with the Government and authorities of the United States." Now, was not that sacrificing those men and making an atonement for conduct which Lord Clarendon himself had characterised in terms which he (Sir F. Thesiger) would be loth to use? He had now brought the matter to this point, and he felt bound to say that he was in no way apprehensive that the discussion would produce irritation or keep alive any bad feeling in the mind of any American. For his own part, he believed that if the Government and the people of the United States perceived that the doctrines and principles put forward in the matter by Lord Clarendon were not sympathised with and agreed to by the House of Commons, it would go far to tranquillise and allay any bitter feeling in the United States which might have been created by the improper conduct of Her Majesty's Government. The question to be asked was—Were the United States right in the course which they have adopted, or were they wrong? Now, the answer to that question depended upon another question, which was—Were Her Majesty's Government justified in carrying out the clandestine and secret schemes which they set on foot, for the purpose and with the idea of invading the neutrality laws of the United States? If Her Majesty's Government were not justified in adopting that course, then the dismissal of the British Ambassador was perfectly right on the part of the Government of the United States, and this country must submit to the indignity which it had received in consequence of the policy of the Government. Now, he wished hon. Members to observe that he used the word indignity advisedly, because no one could doubt that to be obliged to submit to the dismissal of the British Minister placed this country in a position of humiliation and degradation, because it was a tacit confession that we had been in the wrong, and the Government of the United States in the right. He himself could imagine nothing so calculated to degrade England in the eyes of foreign States, and he had been much struck with a passage which he had seen quoted from a foreign newspaper, and which showed the opinion entertained abroad of the conduct of Her Majesty's Government—an opinion unhappily dero-

gatory to the British name and character. That passage was—

"It is far from our intention to blame the prudence, the circumspection, and even the humility of the Government and statesmen of England, which are commanded in the name of such great interests. But, nevertheless, we will permit ourselves to remark that the spectacle offered by the British Administration by no means corresponds with the ideas we had formed of a great Government. This moderation, this patience, pushed to the limits of abnegation in the presence of a cool and premeditated insult; this desertion of an agent who was declared up to the last moment worthy of responsibility; this facility of turning and of viewing matters in their best light, astonishes us above all. But, after all, the honour at stake is not our own, and it is not for us to take it under our protection."

Did not that passage forcibly remind one of the celebrated expression of Lord Chatham—"Yesterday England might have stood alone against the world; now there is none so poor as to do her homage." Who had brought the country into such a position? The answer was a plain one—Her Majesty's Government. He could not, then, hesitate to vote for a Motion, the purport of which was, that the conduct of Her Majesty's Government did not entitle them to the approbation of that House.

MR. J. G. PHILLIMORE said, in his opinion the discussion of the subject was not at all calculated to strengthen the hands of the Government in the negotiations in which they were now engaged, and was strongly to be deprecated, as contrary to the interests which every Englishman was anxious to promote. Before proceeding to analyse the case, he wished to refer to some observations made by the hon. and learned Gentleman, who had just resumed his seat, towards the close of his speech. The hon. and learned Gentleman had asked if the House were ready to submit to the insult of the dismissal of a British Ambassador. Now, it was an established principle of international law that any State had the right of demanding the recall of an Ambassador accredited to it, and that right had frequently been exercised. ["Hear, hear!"] He repeated that any State had a right, according to the law of nations, to demand the recall of an Ambassador. There was no point of international law more clear to any one at all acquainted with it. When Charles II. came to the throne—although he was on most friendly terms with the French Court—he demanded the recall of the French Ambassador. It was absurd, therefore, to suppose that the dismissal of an Ambassa-

dor made war inevitable, or imposed the alternative either of declaring war or of sending another Ambassador. The hon. and learned Gentleman (Sir F. Thesiger) had declared that the proclamation of M'Donald, disavowed by our Government, was the same as that which had been issued at Halifax. But the distinction was, that the latter had been issued in Halifax, while the former was published in New York, which was within the territory of the United States. The law of America did not upon this subject resemble the English law. The policy of the law of England was to forbid a British subject from enlisting in a foreign service without the consent of the Sovereign, whereas the policy of the United States permitted any subject of those States out of their territory to enter the service of foreign Powers. Then the Government of the United States, giving this encouragement to the propensities their own subjects were perpetually displaying of engaging in war with other countries, were taking advantage, in order to fix a quarrel upon us, of the acts of our agent for a similar purpose. There were many persons in the United States who might properly have joined with us in the late war. Some who had suffered from the tyranny of Russia—some who were English subjects. Was there any harm or wrong in inviting them to go to Halifax to be enlisted in our army? Judge Kane had laid it down that the important words in the law were "hire or retain," which included mutuality of engagement, and meant the having paid, or engaged to pay, or perform a contract. Judge Kane further said, "I do not think that the payment of the passage from the country of any men who desired to enlist in a foreign port, would be an act within the law." It was no answer to say that the Judge had afterwards altered his opinion. For if a Judge might mistake the law, a British agent might very well be excused for mistaking it. The fact was that the American law was that the subjects of the United States might go and buccaner as they pleased abroad, and engage in any contest, however violently—or disturb the tranquillity of any nation, however peaceful, provided they made no engagement on the soil of the United States. The English law did not allow this without the consent of the Sovereign. It was all very well to talk of the contrary statements of Lord Clarendon; but let the House listen to the inconsistent statements of the President of

the United States. On the 6th December, 1855, the President said it was a mistake to suppose that the men who had left California, for the purpose of entering the military service of Nicaragua, had left to the knowledge of the Californian authorities with that hostile object. "On the contrary, whenever there is reason to think that such purposes are entertained, every attempt is made to prevent their departure." And on the 25th April, 1856, the President said:—

"The right of expatriation is not withheld from the citizens of any free State, and no Government can have authority to examine into the motives which lead subjects to exercise the right."

Surely the hon. and learned Gentleman (Sir F. Thesiger), who was so eager at detecting the inconsistency of the English Minister, might have observed the contradictory statements of the American President. Throughout the whole of the transactions Lord Clarendon had shown the utmost anxiety to avoid any infringement upon the law of the United States. What reason was there, therefore, to doubt his sincerity? What was the conduct of the Government when they found that, in spite of their precautions, their directions had been violated—in consequence of the law of the United States, anomalous as it was, encouraging the conduct which it did not choose to authorise, and allowing the predatory habits of its people, while at the same time desirous of getting credit for its morality? When the Government of Her Majesty found that to be the case they sent out instructions to put an end to all the proceedings complained of. On the 16th of July, Lord Clarendon wrote to Mr. Buchanan that Her Majesty's Government, having reason to think that no precautionary measures, with whatever honesty they might be carried out, would effectually guard against a real or apparent infringement of the law of the United States, had determined that all proceedings for enlistment should be put an end to, and that instructions to that effect were sent out before Mr. Buchanan's letter was received. Even if the municipal law of the United States had been transgressed, a high-spirited and generous nation ought to have accepted such a statement as that as a complete satisfaction. He believed it was so accepted by Mr. Buchanan; for Mr. Buchanan, in consequence of the receipt of that letter, did not present the despatch which he had received for Lord Clarendon. Would it not have been more consistent

with the honour and dignity of a great nation to accept that declaration as frankly as it was made, than to rely upon the testimony of such worthless scoundrels as Hertz and Stroebel? In speaking of the tone of Lord Clarendon's despatches, his hon. and learned Friend appeared to forget that Lord Clarendon was the Minister of a great country, and to overlook the provocation which he had received. In the very same breath in which the United States Minister admitted the testimony against the British agents to be that of scoundrels, he insisted upon and repeated that testimony. What, moreover, was the language of the United States Attorney General in his opening speech at a great State prosecution? He said,—

“The various schemes which have been adopted for the support of the balance of power by the potentates of Europe have never advanced, and never will advance, those republican institutions which it is our duty to foster. On the contrary, these combinations have been at all times made the means of obstructing in Europe the progress of the democratic spirit, and of prostrating the masses more thoroughly beneath the yoke of an overgrown and decaying aristocracy.”

Such was the manner in which the representative of the United States Government chose to speak of the institutions of this country. If any wrong had been done it was done without the sanction, direct or indirect, of Lord Clarendon. He defied any one to show from the correspondence that his Lordship ever countenanced the slightest infraction of the law of the United States; and, moreover, he maintained that the whole of the evidence which showed that any offence had in fact been committed was utterly worthless. The President of the United States had admitted that the offence was not intentional on the part of the British Government, and he (Mr. Phillimore) could not see anything in the conduct or history of the United States which should lead us to think that its Government felt any real indignation at what had taken place. When he reflected on the conduct of the United States with regard to this country, and its bearing towards other nations, he could not but be reminded of the words of Junius, when he spoke of the prude who prosecuted one man for rape, while, at the same time, she solicited the advances of another. Considering the excessive indignation which had been displayed by the United States Government in relation to the affair, and comparing with it their conduct with reference to Nicaragua, he thought the applica-

tion of those words was *à propos*. The case of the British Government rested on the simplest basis possible. First, he contended that the law of the United States allowed enlistment for a foreign service; and secondly, there had been no violation of that law. The allegation of violation rested on testimony the most worthless; the contradiction rested on the word of a man of unblemished reputation.

MR. H. BAILLIE: Sir, Her Majesty's Attorney General was perfectly correct in stating that, in deference to many hon. Gentlemen with whom generally I have the honour to act, I withdrew the Motion of which I had given notice on this subject. But, at the same time, I must state to the House that I have no reason whatever to complain of the course taken by the hon. Member for Mayo (Mr. G. H. Moore). He, no doubt, believes that the time has arrived when it is impossible for Parliament, without failing in its duty, any longer to remain silent, and that the House is bound to give the case that consideration which the vast importance of the subject imperatively demands. Sir, it is impossible to deny that this is a question in which the honour and character of the nation are involved. Whatever may be our differences of opinion in this House as to the origin of that war in which we have unfortunately been engaged, or as to the manner in which it has been conducted, we shall all, I trust, be equally prepared to maintain and vindicate the honour of our country. That honour, Sir, has been compromised; not, indeed, by the dismissal of Her Majesty's envoy from Washington, but because the Ministers of the Crown have thought fit to maintain and declare that he has been dismissed without a reason and without a cause—that he has committed no offence, and that he has violated no law. Sir, if all these allegations be true, an outrageous insult has then been offered to the people of this country which the Government of Her Majesty has failed in a proper manner to resent. But in discussing this question I consider that it is necessary to go to its origin. We have often been told in this House that the late war with Russia was popular throughout the country, that a great martial spirit had prevailed among the people. If that be true we have a right to ask the Ministers of the Crown how it was that they were unable to fill up the ranks of their army in this country and raise the necessary number of men in order that the war might be carried on with vigour. We have further

a right to ask the Ministers of the Crown how it was that they felt themselves under the necessity of employing agents to solicit and seduce the people of the United States to enter the service of Her Majesty contrary to the wishes and laws of that country. These, I think, are important questions well worthy the anxious attention and consideration of Parliament. Sir, I am not one of those who opposed the Foreign Enlistment Bill in this House. Whatever might have been the objections which I entertained to that measure, I thought at the time it was desirable that at the commencement of the war full and ample powers should be given to the Executive Government; but I certainly did not anticipate that they would have abused them. I never for one moment anticipated that the Government would have brought forward a Bill in this House to sanction foreign enlistment without having by previous inquiry and negotiation ascertained that permission would be given to the raising of a foreign legion. Such has always been the practice adopted by modern European nations. It has always been the practice of France. Not only has that country obtained the permission of the Swiss Government previously to enlistment, but it has also sought the assistance of the municipal authorities. Such likewise is the practice of the Roman and Neapolitan Governments, by both of whom it is well known Swiss legions are engaged. But, Sir, it has been reserved for the Ministers of England to set all decency at defiance, and outrage the laws of other States, calling down upon themselves a just rebuke from the Government of the United States. Fortunate will it be for this country if their proceeding does not lead to still more disastrous results. It has always appeared to me, Sir, that Her Majesty's Government neglected their duty in not impressing on the minds of the people of this country that, if they were anxious that the war should be carried on with vigour, they must be prepared to submit to all the evils and inconveniences which a state of war necessarily entails upon civilised nations. It was, I apprehend, because the First Minister of the Crown shrank from the unpopularity of affirming that principle that the character of the country has been compromised and lowered. I cannot conceive a greater insult to a nation than to attempt to seduce its subjects from their allegiance for the purpose of their serving against a Power

Mr. H. Baillie

with whom their Government is on friendly terms. Let us for a moment reverse the case. Let us suppose that some foreign nation did to us what we are accused of doing towards Prussia, Switzerland, and the United States. Suppose that during the last two years we had been at peace with Russia; that the Government and people of this country meant well to the Russian people; and that the war against Russia had been carried on by France alone. Suppose that the Russian Government, finding it impossible to man her fleets, had sent agents into our seaports to give bounties to our sailors to serve against France, contrary to the wishes and remonstrances of our Government. Suppose they sent vessels into the Thames and the Mersey, and fitted out ships with our sailors. Could, I ask, any Government exist in this country which was not prepared to resent such an insult? How, then, can we be surprised at the course taken by the Government of the United States? Sir, we have been told by a great authority, which receives its information and its inspiration from official sources (of course I mean *The Times* newspaper), that Her Majesty's Government were misled by the language held by the United States Minister, Mr. Buchanan. Now, Sir, that is a very serious charge to make against the American Minister; but one which he thought necessary formally and publicly to deny. But suppose the assertion were true, and that before the war broke out he had expressed his own private opinion that the great mass of the people of the United States would take a deep interest in the success of those European Powers which came forward to resist aggression and maintain the independence of Europe. Why such language as that would only prove that he had mistaken the views of his Government, and the sentiments of the American people. But, Sir, there never was any mistake about the feeling of the United States' Government with regard to the enlistment question. Why, within seven days after Mr. Crampton had intimated to the Government of the United States that we were at war with Russia, they told him that the course they intended to take was one of strict neutrality, and that they would not tolerate any breach of their neutrality laws by any of the contending parties. Now of what is Mr. Crampton accused? He is accused of having given his sanction to the employment of agents by the officers of the

Canadian Government, for the purpose of seducing citizens of the United States from their allegiance to engage in the service of Her Majesty. That is the charge, and before I proceed to the proofs let us come to a clear understanding with respect to the nature of the offence. A great confusion of ideas has hitherto prevailed on that subject. The offence is described by the noble Lord the First Minister of the Crown, and by the noble Lord the Secretary of State for foreign Affairs, as a breach of some municipal law of the United States. Now if the offence charged has been committed, it is a direct and flagrant violation of the law of nations, and it is so held by various authorities on international law. I will very briefly advert to some of those authorities. The hon. and learned Gentleman the Attorney General adverted to the authority of Vattel. He did not quote him, and did not seem to hold his authority in much estimation. Now hear what Vattel says upon the subject—

"The man who undertakes to enlist soldiers in a foreign country, without the Sovereign's permission, and, in general, whoever entices away the subjects of another state, violates one of the most sacred rights of the prince and the nation. This crime is distinguished by the name of kidnapping or man-stealing, and is punished with the utmost severity in every well-regulated state. Foreign recruiters are hanged without mercy, and with great justice. It is not presumed that their Sovereign has ordered them to commit a crime; and supposing that they had received such an order, they ought not to have obeyed it, their Sovereign having no right to command what is contrary to the law of nature. It is not, I say, presumed that these recruiters act by orders of their Sovereign; and with respect to such of them as have practised seduction only, it is generally thought sufficient to punish them when they can be detected and caught. If they have used violence and made their escape, it is usual to demand a surrender of the delinquents, and to claim the persons they have carried off. But if it appears that they acted by order, such a proceeding in a foreign Sovereign is justly considered an injury, and as a sufficient cause for declaring war against him, unless he makes suitable reparation."

Klüber (who has acquired a great reputation in Germany by his works upon public law) says, in his *Droit des Gens Modernes de l'Europe*—

"A state entirely neutral has the right to exact, even by force if necessary, that belligerent powers do not use neutral territory for the purposes of war, that they take not therefrom munitions of war, and provisions and other immediate requirements of war for their armies, that they do not make there any military preparations, enrolments, or collections of troops."

The celebrated Ferdinando Galiani, a learned Neapolitan, whose writings upon political economy, as well as upon public law, were much admired by Voltaire, says in his work *Dei doveri de Principi Neutrali*, upon the duties of neutral powers, p. 325—

"All Governments are accustomed to forbid under capital penalty any foreigner to make military engagements or recruits within their territory; in doing which they do no more than to sustain and defend a natural right, and one inherent in every sovereignty."

Hautefeuille, a modern French writer of great authority, says—

"The duties of belligerents may be summed up in very few words. The belligerent ought to abstain from the employment of all such indirect means to molest his enemy as in the accomplishment of their object would first injuriously affect a neutral nation. He ought to respect in the most complete and absolute manner the independence and sovereignty of nations at peace."

And again, he says—

"The passage of armed troops, the levying of soldiers without the consent of the Sovereign, would constitute an offence against the sovereignty of the neutral, and a violation of the duty of the belligerent."

Sir, from the authority of jurists I will go to the authority of statesmen; and I will refer to the opinion of one whom I presume will be held in reverence and respect by the noble Lord the First Minister of the Crown—I mean Mr. Canning. On the 16th of April, 1823, a Motion was made by Lord Althorp to repeal an Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service. That Motion was supported by the noble Lord the Member for London (Lord J. Russell) and was opposed by Mr. Canning, the Secretary of State for Foreign Affairs. In the speech which Mr. Canning made upon that occasion he illustrated the subject by reference to the conduct of the United States, and I am happy to have this opportunity of showing the House that the Government of the United States asks nothing from us now which they were not ready upon a former occasion, and under precisely similar circumstances, to concede. The coincidence is very striking, and I would beg the attention of the House to the statement of Mr. Canning. He says—

"All I now call upon the House to do is, to adopt the same course which it has recommended to neutral Powers upon former occasions. If I wished for a guide in a system of neutrality, I should take that laid down by America in the days of the presidency of Washington and the

secretaryship of Jefferson. In 1793 complaints were made to the American Government that French ships were allowed to fit out and arm in American ports for the purpose of attacking British vessels, in direct opposition to the laws of neutrality. Immediately upon this representation the American Government held that such a fitting out was contrary to the laws of neutrality, and orders were issued, prohibiting the arming of any French vessels in American ports. At New York, a French vessel fitting out was seized, delivered over to the tribunals, and condemned. Upon that occasion the American Government held that such fitting out of French ships in American ports, for the purpose of cruising against English vessels, was incompatible with the sovereignty of the United States, and tended to interrupt the peace and good understanding which subsisted between that country and Great Britain. Here, Sir, I contend is the principle of neutrality upon which we ought to act."—[2 *Hansard*, viii. 1056.]

Such was the language—such the principles which Mr. Canning advocated. I cannot refrain from expressing my regret that they are no longer maintained by his successor, and I believe his Friend (Mr. Canning) might have added that the French Minister, engaged in the proceedings to which he referred, was recalled on the demand of the President. I will only quote one other authority, and that is of a great lawyer and statesman, I mean Sir William Scott. Sir William Scott moved the third reading of the Foreign Enlistment Bill, remarking "that there could be no solecism more injurious in itself, or more mischievous in its consequences, than to argue that the subjects of a State had a right to act amicably or hostilely with reference to other countries." This is directly at variance with the language of the noble Lord, who says, *ubi civitas non carcer*—that the people of the United States have a right to leave their country to enter into foreign service. The Act of Congress provides—

"That if any person shall hire or retain any other person to go beyond the limits or jurisdiction of the United States, with the intent to enlist or enter himself in the service of any foreign Prince, State, colony, district, or people, as a soldier, he is guilty of the misdemeanor created by the Act."

It may be true that the Act of Congress is not so complete and perfect as our Foreign Enlistment Act, but the intention and spirit are the same, and I have yet to learn that this nation has a right to violate even the spirit of the laws of other countries. Having, as I believe, established what is the nature of the offence, as well as the duty of the State, I will now proceed to consider the charge made by the President of the United States against the Government of this country. The President of

Mr. H. Baillie

the United States, upon a very solemn occasion, when making his speech to Congress, used the following language:—

"Meantime, the matter acquired additional importance by the recruitments in the United States not being discontinued, and the disclosure of the fact that they were prosecuted upon a systematic plan devised by official authority; that recruiting rendezvous had been opened in the principal cities and depôts for the reception of recruits established on our frontier; and the whole business conducted under the supervision and by the regular co-operation of British officers, civil and military—some in the North-American provinces, and some in the United States. The complicity of those officers in an undertaking which could only be accomplished by defying our laws, throwing suspicion over our attitude of neutrality, and disregarding our territorial rights, is conclusively proved by the evidence elicited on the trial of such of their agents as have been apprehended and convicted. Some of the officers thus implicated are of high official position, and many of them beyond our jurisdiction; so that legal proceedings could not reach the source of the mischief. These considerations, and the fact that the cause of complaint was not a mere casual occurrence, but a deliberate design, entered upon with a full knowledge of our laws and national policy, and conducted by responsible public functionaries, impelled me to present the case to the British Government, in order to secure, not only a cessation of the wrong, but its reparation. The subject is still under discussion, the result of which will be communicated to you in due time."

Acts of complicity, then, have been proved upon the trial of the British agents. But before I enter upon that question, allow me to call the attention of the House to the statement made by the noble Lord at the head of the Government, in answer to a question put to him at the beginning of the Session by the hon. Member for the West Riding (Mr. Cobden). The noble Lord on that occasion said it was true that some violations of the municipal law of the United States might have taken place; but that as soon as those violations of the law were brought to the notice of the Government, they took immediate steps to put an end to them; that the depôts for recruiting were ordered to be removed, and the recruiting itself stopped; and that a suitable apology was made to the United States Government, which was accepted by the United States Minister here, who stated that he had no doubt it would also be accepted by his Government. Now, in making that statement the noble Lord, no doubt unintentionally, completely misled the House and the country; for the noble Lord, drawing upon his imagination, I apprehend, stated that a "suitable apology" had been made, whereas, in fact, none at all had been made for that which was the

principal complaint of the United States. The principal complaint of that Government was, that our Minister had violated their laws, and the answer of Her Majesty's Government was that the charges brought against him were based upon the fabrications of perjured witnesses. Well, that may have been a very proper answer if it were true, but surely it cannot be called an apology. Undoubtedly, on the 16th of July last year a despatch was delivered to Mr. Buchanan by Lord Clarendon, in which it was stated that if the laws of the United States had been violated, the noble Earl was very sorry; but he added, he did not believe that they had been, and it is also perfectly true that Mr. Buchanan was ready at that time to accept that as an apology, inasmuch as he said he would transmit it with satisfaction to his Government; but then he never said that his Government would receive it with satisfaction; and afterwards he repeatedly stated, that when he expressed that satisfaction he was not in the least aware of the charges that were made against Mr. Crampton. Now it is quite manifest that the charges against Mr. Crampton are of a much more serious nature than those for which the apology—if it can be called an apology—was made; because that was for acts supposed to be done by the over zeal of some of our Canadian officers. But when violations of the law are committed by the resident Minister of a Government, it is clear that the whole nature of the case is changed. It is, however, necessary that I should give Mr. Buchanan's explanation of the matter to the House. At page 156 of the Blue-book, Mr. Buchanan says that he was somewhat surprised at the broad statement made by the noble Lord at the head of the Government, that when the communication was made to the United States Minister in London he expressed himself satisfied with the explanation, and said he felt confident that his Government entertained a similar feeling in regard to it; that fortunately the only expression, verbal or written, which he (Mr. Buchanan) had employed on the occasion, was contained in his note to Lord Clarendon of the 18th of July, acknowledging the receipt of his Lordship's note of the 10th, and which was in the following language—

"And the undersigned will have much satisfaction in transmitting a copy of his Lordship's note to the Secretary of State by the next mail. From this it will be perceived that I made no allusion

whatever to what would be the opinion of my Government as to Lord Clarendon's note, nor did I express an opinion of my own, except that which might be inferred from the statement that I should have much satisfaction in transmitting a copy of his Lordship's note to the Secretary of State."

It is not my intention, after the ample manner in which my hon. and learned Friend (Sir F. Thesiger) has dissected the question, to tire the House by going into a further analysis of it; but there are two or three points to which he has not referred, and to which I would beg to ask the attention of the House for a few moments. I will now give a short summary of the case presented by the Government of the United States against Mr. Crampton. Mr. Marcy states that when the recruiting first commenced in the United States it was carried on openly without any attempt at concealment, that houses were engaged in the principal towns for the reception of recruits, and that advertisements were put forth calling upon recruits to come forward, headed by the Queen's arms. It was natural that the attention of the United States Government should be immediately called to these proceedings, and an application was accordingly made by Mr. Marcy to Mr. Crampton to know whether the proceedings had received the sanction and approval of the British Government. Mr. Crampton at once assured Mr. Marcy that they were the acts of unauthorised agents, and that he entirely disapproved of them; in confirmation of which he read a copy of a letter which he had written to Mr. Barclay, Consul at New York, expressing that disapproval. This letter was dated the 22nd of March, and the date is very important; for it afterwards came out upon the trial of Hertz that Mr. Crampton had been engaged for two months previously in correspondence and in verbal communication with the two most active agents of the recruiting—namely, Hertz and Stroebel, and this was proved upon the trial by the production of three of Mr. Crampton's letters, two addressed to Hertz, and one to Stroebel, dated the 27th January and 4th February, 1855, nearly two months previous to his interview with Mr. Marcy, in which he assured him he had nothing to do with the notices in the papers. Hertz had been invited by Mr. Crampton to come from Philadelphia, where he had a recruiting office, to Washington, where he had information to give him. Mr. Crampton

says—"With reference to our late conversation, I am now enabled to give you some more definitive information on the subject to which it related." Well, Hertz was arrested, tried, and convicted, and sentenced to imprisonment. He then made a confession, which, we are told, is a tissue of falsehood; I will not, therefore, ask the House to believe one word of it, that is not confirmed by Mr. Consul Mathew, and I suppose we are to believe him. Hertz says in his confession, "I was employed by Mr. Howe and acted as his agent, with the knowledge and approbation of Mr. Crampton and Mr. Mathew." "Mr. Howe," is now Sir Joseph Howe, an officer of high rank in Nova Scotia, whom Sir Gaspard Le Marchant despatched to Mr. Crampton, as a person in whom he had perfect confidence, to concert respecting the recruiting business. Hertz says he was employed by Mr. Howe, and I beg leave to say that Mr. Crampton has, in his last letter, written since he has been in London, made this statement—"Who, then, Mr. Marcy asks, were responsible for the illegal acts proved to have been committed? It may be replied only those who were convicted of them—namely, Hertz and Wagner." Well, Hertz, it appeared, did act for him; let us see if he acted without authority. He says he was employed by Mr. Howe, with the knowledge of Mr. Crampton and Mr. Mathew. How is that borne out? At page 34 of the Blue-book there is a letter from Mr. Mathew to Mr. Crampton, and in that letter Mr. Mathew says—

"At his (Hertz's) request I transmitted a sealed letter to Mr. Howe, and handed him a reply, containing, I believe, money, for which he gave a receipt made out to Mr. Howe, and enclosed by me to him. On a second occasion I declined to give him the money, though merely the channel of transfer, and the amount was sent to the proprietor of an hotel, from whose book-keeper he received it."

This, then, is a clear proof that Hertz was the agent of Mr. Howe, and that Consul Mathew had a full knowledge of their proceedings, which he doubtless knew to be illegal, and, therefore, declined upon the second occasion to commit himself. As regards Mr. Crampton, we cannot doubt that he acted in concert with Mr. Howe, and his frequent reception of Hertz at his house is an additional proof that he had a knowledge of his proceedings. I am quite ready to admit the statement of Mr. Crampton to Lord Clarendon, "That he never hired, or retained, or engaged a single

Mr. H. Baillie

person within the United States for the service of Her Majesty;" and no one ever accused him of having done so. I will even go further, and say that I do not doubt that Mr. Crampton told Hertz every time he saw him not to violate the law. But what is the use of telling a man like Hertz not to violate the law? Hertz's object was to obtain recruits; he knew that they were not to be had without money, and how was he to know what interpretation the United States lawyers might put upon the word hire or retain? The result was that he obtained the recruits, and, consequently violated the law. And now I come to the other agent, Stroebel. He seems to have acted a more conspicuous part than Hertz. Mr. Crampton's letter to him also was produced at the trial. It was dated Feb. 4, 1855, on the same day as that addressed to Hertz, and is expressed in nearly the same terms. After Stroebel's interview with Mr. Crampton at Washington he entered the recruiting service, and suddenly rose to the rank of captain of the 1st company of the Foreign Legion. He went with a detachment of recruits, raised in Philadelphia, to Halifax; was received into fellowship with the military and civil officers of the highest position in her Majesty's service there stationed; was invited to partake of the hospitality of his Excellency Sir Gaspard Le Marchant, the Lieutenant Governor of the colony; and the account of his triumphant entry at the head of his recruits into Halifax was published in all the papers. The vigorous application of the law in the United States, however, having put down the recruiting there, Mr. Crampton, in the month of May, went over to Canada; and upon his arrival at Halifax he again renewed his acquaintance with Captain Stroebel, which was proved by the following letter from Lieutenant Preston, of Her Majesty's 76th Regiment:—

"My dear Stroebel,—I am directed by the General to acquaint you that Mr. Crampton wants to see you at his house at ten o'clock to-morrow morning; be punctual. If you like to come up to my room at half-past nine we will go together."

Now, he considered that this letter was very important, as showing that almost the first person Mr. Crampton sought out upon his arrival at Halifax was Stroebel. In the evidence of Stroebel, at the trial of Hertz, he declares that he submitted to Mr. Crampton a new plan of operations,

which was approved of; that the agents to be employed were left to his selection; and that Mr. Crampton drew up written instructions for their guidance, which instructions were delivered to Stroebel in the house and in the presence of the Governor of Canada. Mr. Crampton has admitted this, but he says the instructions were drawn up with a view to prevent a violation of the law. I do not wish to express any opinion as to what might constitute a violation of the Act of Congress; I suppose it will be admitted that the measure was passed to prevent American citizens from being sent out of the country to engage in foreign service, and I think it will also be admitted that the ingenuity of Mr. Crampton was exercised in order to evade the provisions of the Act. Here, then, a very grave question arises, whether any man in Mr. Crampton's position could be justified in writing out instructions for the guidance of men whom he now declares to be of an infamous character, and in pointing out to them how the laws of the country to which he is accredited may be evaded with impunity? I care not whether the written instructions delivered to Stroebel point to a violation or only to an evasion of the law; if they were issued after assurances had been given to the Government of the United States that Her Majesty's Minister had nothing to do with the recruiting, he committed his country, in a moral point of view, to a breach of faith most discreditable to the Government by whom he was employed, and calculated to compromise the honour of the nation in whose service he was engaged. In leaving this part of the subject let me be clearly understood; I do not stand here to defend the Government of the United States. Their conduct may have been as bad as possible, but this I do contend, that the conduct of our own Government has been quite inexcusable. It will now be my duty to show that these violations of international law were not accidental occurrences, which took place in consequence of the over-zeal of Canadian officials, but that they were carried out by the Government as deliberate acts of policy, not only in the United States of America, but also in the States of Europe, in Germany, in Prussia, in Switzerland, and in the Hanse Towns. It is perfectly true that we have no official information before with respect to the remonstrances which may have been made by the Governments of Prussia, the Hanse

Towns, and Switzerland, because the noble Lord at the head of the Government has refused to produce that information, upon the ground that he thinks it injurious to the public service to do so. But if it is injurious to the public service to produce that correspondence, there must surely be something in it which injuriously affects the character and the honour of the country; and I should like to know if this House will submit to be told by Ministers that important information with respect to transactions already closed shall not be laid before Parliament? Under the present circumstances of the case, then, as we cannot rely upon official information, it will be my duty, therefore, to take the facts that have been published in the newspapers, and talked about in every coffee-house in Germany to the dishonour and discredit of the very name of Englishman. And, first, with regard to Switzerland. The Switz Government having refused to allow the neutrality of their country to be violated, Her Majesty's Ministers addressed themselves to the Emperor of the French, and requested permission to establish a *dépôt* for the reception of Swiss troops at Huninguen, a town on the frontier of France, within a few miles of the city of Basle. This being acceded to, emissaries were at once sent into Switzerland for the purpose of "giving information;" and I must confess that I do not very clearly see the distinction to be drawn between those emissaries and what are termed "crimps." At all events, the measure caused very extensive desertions among the Swiss troops. On one occasion the whole of the soldiers on guard at the gate of St. John, Basle, deserted together in the course of the night. The results were, altogether, such as were disgraceful to this country, and calculated to render it a common nuisance to surrounding nations. Then, with regard to Prussia. The laws against recruiting for the service of foreign Powers in Prussia amounted to what in this country would be called felony. By the Prussian Code, whoever effected an enlistment of a Prussian subject for a foreign State, or brought recruits for such foreign State out of the Prussian dominions, though he might not be guilty of kidnapping, was punishable with four years' imprisonment in a fortress. It is well known that Her Majesty's consul at Cologne was tried, convicted, and sentenced on a charge of that description, and he was pardoned by the King only

because he pleaded that he had acted under the orders of Her Majesty's Government. Now, that was the position in which Her Majesty was placed by her Ministers. The noble Lord at the head of the Government, when asked to lay on the table the correspondence on the subject of enlistment with Prussia and the Hanse Towns, said there was none. There had, he stated, been a few agents imprisoned, but there was no correspondence. Now, that is the way in which great men treat their tools—those whom they employ in these matters. Why, however, should there be any difference as between the conduct of the Government towards the Hanse Towns and Prussia, in this instance, and the United States? When the United States remonstrated, their remonstrance was at once attended to, recruiting was stopped, and an immediate apology was made; but nothing of the kind has been done in regard to Prussia and the Hanse Towns; on the contrary, a sloop of war was lying in the Elbe all through the war, for the purpose of receiving recruits from these places, against the will of their respective Governments, and transferring them to Heligoland. Was it the policy of the Foreign Office, as it was when the noble Lord at the head of the Government more immediately superintended its action, to be humble and submissive to great naval States, and to treat with disregard those States which were not great naval Powers? The House must doubtless remember how humble and submissive the noble Lord was to Russia, in the case of the capture of the *Vixen*; and how humbly he submitted to the absorption of Cracow, and the violation of the Treaty of Vienna which it involved. It should also be remembered how determined he has been with Naples, and Sicily, and Greece, and other of the smaller Powers of Europe. I did hope that the foreign policy of the noble Lord would be improved with the change of his position; but I regret to find that it is not so, and I can imagine none other better calculated than that then and now pursued to render the name of England detested and despised by all Europe. Looking at the question, however, not so much in its relation to foreign States as in its relation to domestic policy, what do we see? In the year 1813, an army was maintained in this country of far greater efficiency than that which was voted last year, though the population of the country was then only 16,000,000, whereas it

Mr. H. Baillie

is at present over 28,000,000. It is admitted on all hands that in time of war the only effective means of recruiting the army is from the militia; to neglect the militia, therefore, is to neglect the army. The state of the militia in 1813, was as follows: The county militia, embodied and called out for effective service, was 93,210 men; the local militia, not liable to removal from the place where they were raised, amounted to 304,000; the volunteers and cavalry were 68,000 in number; making, in all, 465,210 men. The regular army in, 1813, was 227,442 men. During the last war with Russia, however, the militia embodied only amounted to 45,000 or 50,000 men. In fact, the voluntary system entirely failed for the purpose of obtaining men of a proper age for active service. The hon. and gallant Member for Westminster (Sir De L. Evans) asked, in the early part of the Session, what had become of the army of 212,000 men voted by Parliament, as then only 60,000 had landed at Balaklava; and he also inquired if they were doing duty as policemen in the colonies? Now, I can answer that question. They were not doing duty in the colonies, for the regular troops had been removed from Canada, from Corfu, and elsewhere, to the Crimea; the truth was, they had never been raised. At the commencement of the present year, and all through the past year, the army was 45,000 men below the number that had been voted by Parliament. So it was during the war, the average being from 40,000 to 50,000 short of the number voted by Parliament. I believe there is not a man in the country who does not feel humbled at the manner in which the war has been conducted, as regards the army. It ought to have been the main-spring of the action of the Government to maintain the native army in a state of efficiency in point of numbers; but the Government, on the contrary, seemed to think that a lavish and profuse expenditure of money, far beyond what was spent in those times which were called the "rampant days of Toryism," when the noble Lord (Viscount Palmerston) was Secretary at War, was sufficient for all purposes. In those days of rampant Toryism, however, we had at least a national army to show for our expenditure; now we have none, for our army in the East boasted of no fewer than six different nations, namely—a corps of Germans, a corps of Swiss, a corps of Italians, a corps of Poles, a corps of Sardinians, and a

corps of Turks. Such was the motley assemblage to which the maintenance of the honour and dignity of England was entrusted. I may be told that this is the result of our system, and that this country can never have a large army, because of the aversion of the people to conscription. The people of the United States are not less free and independent than the people of England, and yet the United States Government find no difficulty in raising an army. Does any one think that the safety and honour of England can be defended and protected by hired troops? If such be the views of the Government the people of England must make up their minds to submit to a far worse evil than the conscription; they will have to submit to the degradation of our country, and her reduction from the high and lofty position which she has always occupied, and sink permanently into the position of a second-rate Power. The position of England has been changed in reference to other countries by the introduction of steam power into naval warfare, and unless we are prepared to adopt those means of defence which are demanded by this great change, we may give up all hope for the future.

SIR GEORGE GREY: Sir, it is my intention to occupy only a short portion of the time of the House, on the matter under consideration, but I feel it necessary to make some remarks upon the speech which has just been delivered by the hon. Gentleman the Member for Inverness-shire. It is difficult to ascertain what is the precise nature of the charge which hon. Gentlemen opposite intend to prefer against Her Majesty's Government. The hon. Gentleman the Member for Mayo (Mr. G. H. Moore) has moved a Resolution on this question after a Resolution on the subject had been abandoned or given up by the hon. Gentleman the Member for Inverness-shire (Mr. H. Baillie), from considerations of regard for the public interest, and in concert with that party with which he acts. The hon. Member for Mayo has shown too clearly that he has but one endeavour—to dishonour and depreciate the character of Lord Clarendon, which stands far too high in the estimation of Europe to be affected by the sarcasms even of the hon. Gentleman. The hon. and learned Member for Stamford (Sir F. Thesiger) has cast a shaft at the Government for another reason—namely, because he thinks an indignity has been thrown upon the Government by

the removal of Mr. Crampton; and he says that if the Government were satisfied with his conduct they ought to have resented his dismissal by the dismissal of Mr. Dallas, the United States Minister here. He says that, in doing so, the Government have stooped to an indignity that compromised the honour and character of this country, and did not deserve to meet with the approbation of the House. But the hon. Gentleman the Member for Inverness-shire has taken a different view of the subject altogether. His ground of attack is the whole policy and spirit of the Foreign Enlistment Act. The hon. Gentleman has, indeed, made a speech that might have been made with force and effect, and which I am not sure was not made, at the time the Foreign Enlistment Act was passing through this House. He has laid down distinctly the position that no foreign country can allow its subjects to enter into the service of a country engaged in a war with a State with which that country is at amity. He says that the law *civitas non carcer est* is incorrect, and that the United States have no right to allow their subjects to enter the service of a State at war with a country with which they are not at war. [Mr. BAILLIE: Not without the permission of their Government.] But what did Mr. Marcy say? Mr. Marcy, writing to Mr. Molina, April 25, 1856, said,—

“The right of expatriation is not, I believe, withheld from the citizens of any free Government or from residents under its jurisdiction. The laws of neither country (Costa Rica and the United States), it is presumed, have conferred the authority to examine into the motives which may lead any one to exercise the right of expatriation. The liberty to go where hopes of better fortune may entice them belongs to freemen, and no free Government withholds it. It is, therefore, no cause of complaint against a neutral country that persons in the exercise of this right have left it, and have been afterwards found in the ranks of the army of a belligerent State.”

The President, in his Message of May 15, 1856, also said,—

“In these circumstances of the political debility of the Republic of Nicaragua, and when its inhabitants were exhausted by long-continued civil war between parties, neither of them strong enough to overcome the other or permanently maintain internal tranquillity, one of the contending factions of the Republic invited the assistance and co-operation of a small body of citizens from the State of California, whose presence, as it appears, put an end at once to the civil war, and restored apparent order throughout the territory of Nicaragua.”

Thus the hon. Gentleman the Member for Inverness-shire has laid down in defence of

the United States a doctrine which the United States do not lay down in their own defence. He asserts what has been disclaimed both by Mr. Marcy and also by the President. The law of the United States has been, I apprehend, clearly laid down by my hon. and learned Friend the Attorney General—except that he did not state it so high as, in my opinion, he might have done—that it is within the competence of a citizen of the United States to leave the territory of that country with the avowed object of taking service in the army of a foreign State, provided he does not enlist or engage himself within the limits of the territory of the United States. With regard to the Foreign Enlistment Act, the hon. Gentleman (Mr. H. Baillie) has adverted to the state of the army which this country had in its pay in 1813, at the close of the great war, and when our military force was very great, and he has argued that it was quite unnecessary to have recourse to foreign soldiers to recruit our ranks during the war with Russia. But the hon. Gentleman has overlooked the fact that it is at the beginning of a war much more than at the end of a war that the difficulty in recruiting a British army is found. The Government of that day thought, and I think justly, that, looking at the difficulty of raising our English forces with the rapidity that was necessary, it was desirable not to have recourse to any new method of recruiting, but to resort to a mode which prevailed during the war to which the hon. Gentleman has referred, and to see whether we could not draw to our standard those subjects of other countries who were disposed to make common cause with us. I believe that was sound policy, and it became the duty of the Government, after that Bill was passed, to take those measures which they thought most expedient to carry into effect the intention of that enactment. The hon. Gentleman the Member for Mayo says, that the first step in this enlistment question was taken by the Colonial Secretary in his despatch dated February, 1855, and addressed to Sir Gaspard le Marchant, in which he suggested that a dépôt should be opened at Halifax for the reception of volunteers. But that, I must state to the House, was an incorrect description. The first movement, it is well known, was made by parties who resided within the United States, many of whom were British subjects, others being Germans who had taken

Sir George Grey

part in the Schleswig-Holstein war, and others foreigners who, from the force of political circumstances, had taken refuge in that country, who wrote to express their desire to take part in the war. Does the hon. Gentleman mean to say that it was not the bounden duty of the Government to write that letter? The Government felt that great caution was necessary in accepting these offers. They were aware of the neutrality laws of the United States, and they were most anxious that nothing should be done to infringe them. They thought it right that the fact of a dépôt being opened at Halifax, where the British Crown had an undoubted right to open a dépôt, should be communicated to Mr. Crampton, at Washington, Mr. Crampton having sent those offers, to which I have alluded, to Her Majesty's Government. They therefore directed Sir Gaspard Le Marchant to place himself in communication with Mr. Crampton, so that Mr. Crampton, knowing everything that was being done, might take care that nothing was done in violation of the sovereign rights or municipal law of the United States. Both Sir Gaspard Le Marchant and Mr. Crampton were enjoined to avoid anything that might be construed into a violation of the laws of the United States. In that spirit the Government acted, and in this spirit they believed that their officers had acted, and they therefore believed that it would be an act of baseness and injustice if, when they were asked to recall them, they had acquiesced in that demand, which would have amounted to an admission that, in the opinion of the British Government, their officers had violated their instructions, and that their assertions were not entitled to credit. They felt assured that their officers had acted up to the letter and spirit of the instructions they had received, and, therefore, Lord Clarendon, in the despatch of April 30, said he felt it to be his duty to abstain from recalling those officers, because there was nothing in his opinion to justify their recall. How did Mr. Crampton act? My hon. and learned Friend the Attorney-General, in the course of his speech, quoted a passage from the correspondence which showed that Mr. Crampton communicated to the Government of the United States the offers made by persons resident in the United States to take service in Her Majesty's army, and here is at once the answer to the hypothetical case put by the hon. and learned Member for Stamford, as

to what would be thought by this Government of the conduct of the French Government if, being at war with Russia or any other country, they should, because they were in want of seamen, send steamers to the ports and rivers of England and enlist men in a war to which we were no party, and against a State with which we were at amity? The first answer is, that it would be a direct violation of British law. The distinction between the law of England and the law of the United States has been pointed out by my hon. and learned Friend the Attorney General. No country could take that course without a direct violation of the law of this country. But suppose that it was no direct violation of the law of this country, and suppose that the French Government were to do what it is imagined possible they might do, if at the same time the French Ambassador communicated to Her Majesty's Government that the French Government were anxious to obtain the services of British seamen, and were taking measures to enlist them in their service, and we said, "So long as they respected our laws any seamen were welcome to enlist," the case would be wholly different, and all cause of quarrel between the two countries would be removed. That is precisely what was done by Mr. Crampton with respect to the United States' Government. He made no concealment of the offers of service; he made no concealment of the desire of Her Majesty's Government to avail themselves of those offers; and if he did not enter minutely into all the arrangements, with the view of respecting the laws of the United States, in obtaining the services whether of British subjects or of foreigners, it was because he was impressed with the conviction, that while Mr. Marcy asserted, and very properly asserted, the determination of the United States' Government to enforce the neutrality laws, he would not be anxious to inquire as to what was going on relative to persons like those who went to Nicaragua, who were induced to leave the United States for the purpose of entering the service of the British Crown. That was the spirit in which Mr. Crampton acted, and when criticism is passed upon a single passage of Lord Clarendon's despatches, or on the fact of Mr. Crampton being in communication with persons whose characters are most disreputable, the House will do injustice if it overlooks the general spirit of moderation and friendliness, as

well as fairness, which characterised the despatches of Lord Clarendon, and the friendly spirit in which Mr. Crampton acted throughout these transactions. When it was found that persons were engaged in acts which Her Majesty's Minister at Washington and Her Majesty's Government were bound to disavow—when it was found that persons, professing to act with authority they never received from Her Majesty's Government or Mr. Crampton, Her Majesty's Minister at Washington, were doing acts tending to compromise friendly relations between the two countries, and which it was impossible strictly to defend—whatever the letter of the law with regard to enlistment might be, Her Majesty's Government avowed their determination to put an end to the scheme of keeping open a depot at Halifax for the reception of persons desirous of entering the British service. It has been stated in the course of the discussion that no apology or explanation was offered to the United States' Government which could be considered satisfactory. The apology, said to be no apology, does not admit acts to have been done by persons who were under the authority of Her Majesty's Government, because they felt that no act had been done under the authority which gave just cause of complaint; but the terms of the apology were these:—

"The undersigned must, in the first instance, express the regret of Her Majesty's Government if the law of the United States has been in any way infringed by persons acting with or without any authority from them; and it is hardly necessary for the undersigned to assure Mr. Buchanan that any such infringement of the law of the United States is entirely contrary to the wishes and to the positive instructions of Her Majesty's Government."

It was impossible that apology should distinctly admit that the acts done were contrary to the laws of the United States, because we had no evidence to satisfy us of the fact. But we said, the fact may be so, and if so, we regret that such acts have been done. But was that the only passage calculated to remove any dissatisfaction in the United States with regard to these transactions? I think the concluding passage of this despatch is of a character which the House ought to mark in esteeming the spirit by which the Government has been influenced throughout this affair:—

"The undersigned has, however, the honour, in conclusion, to state to Mr. Buchanan that Her Majesty's Government, having reason to think

that no precautionary measures, with whatever honesty they might be carried out, could effectually guard against some real or apparent infringement of the law which would give just cause for complaint to the Government of the United States, determined that all proceedings for enlistment should be put an end to, and instructions to that effect were sent out before the undersigned had the honour to receive Mr. Buchanan's note, as the undersigned need hardly say that the advantage which Her Majesty's service might derive from enlistment in North America would not be sought for by Her Majesty's Government if it were supposed to be obtained in disregard of the respect due to the law of the United States."

Now, I ask the House whether the whole tone and spirit of that despatch is not an apology for any acts done in contravention of the law of the United States, though we were not aware of any such act; and whether the conclusion of it did not intimate that we would forego all the advantages we were likely to obtain from the zeal of certain persons in the United States to enter into our service, and take part in the contest in which we were engaged, rather than risk the occurrence of any circumstance which might give just cause of dissatisfaction to the United States? A good deal has been said as to the effect of that despatch on Mr. Buchanan, and my noble Friend has been accused of misrepresenting the feeling produced by that despatch. What are the facts of the case? Mr. Buchanan, to whom that despatch was addressed, made but a short answer. He did not enter into argument whether the line taken by Her Majesty's Government was likely to give satisfaction, nor did he controvert the statement of Lord Clarendon; but he answered thus:—

"The undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States has the honour to acknowledge the receipt of the note which the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, addressed to him on the 16th inst., in answer to his note of the 6th inst., on the subject of the enlistment and employment of soldiers for the British army within the United States; and the undersigned will have much satisfaction in transmitting a copy of his Lordship's note to the Secretary of State by the next steamer."

If that stood alone, I should say Mr. Buchanan was satisfied with the explanation given by Her Majesty's Government—with their apology, in case any acts had been done in violation of the United States' law, and the decision they had come to to abandon all these proceedings, to avoid any cause of offence. But it did not stand alone. That despatch was

Sir George Grey

crossed by one on its passage to this country from Mr. Marcy to Mr. Buchanan, insisting on satisfaction, in ignorance of the explanation and apology it contained. Mr. Buchanan received that despatch of Mr. Marcy, but did not think it necessary to give it to Lord Clarendon, although he was directed to do so; and it is impossible to doubt that he abstained from so doing because he felt that the despatch, which, as he terms it, "he should have great satisfaction in transmitting to his own Government," was likely to terminate, and, as we think, ought to have terminated the whole affair. To show the spirit in which we received the remonstrances of the United States' Government, and our anxiety to avoid everything which could give just cause of offence, I will read a few lines of the despatch of Lord Clarendon to Mr. Crampton, on the 16th of November, in which he says—

"Before I proceed to offer any remarks upon this despatch, it will be proper to state that when it was read to me by Mr. Buchanan, I had no cognizance of Mr. Marcy's despatch of the 15th of July, to which it alludes, and of which a copy was also transmitted to you; and upon my observing this to Mr. Buchanan, he said he had not thought it necessary to communicate it to me, as before it had reached him he had received my note of the 16th of July, which he thought would finally settle the question that had arisen between the two Governments."

Now, I think this passage clearly shows that the impression made upon Mr. Buchanan's mind by the receipt of the despatch from which I have quoted was, that it ought and would terminate the whole affair, and that he concurred in thinking the conciliatory course we had taken, out of deference to the opinions of the Government of the United States, would be entirely satisfactory and remove all cause of complaint or remonstrance. I know it is said subsequent transactions occurred, but the whole rests on no other foundation than that some persons were paid who had gone to Halifax with the expectation of being received as recruits in Her Majesty's service and were not so received in consequence of the determination to abandon the scheme altogether, in deference to the feeling of the United States' Government. Money was paid to them, not for the purpose of enlisting them in Her Majesty's service, or for the purposes of inducing them to go anywhere, but merely to reimburse them for their loss of time and expenses incurred in a fruitless journey. I will not read the despatch which counter-

balances that read by the hon. and learned Member for Stamford (Sir F. Thesiger) and which he thinks not at all calculated to maintain friendly relations, but I may say that it was an answer to a despatch of a character not very friendly to Her Majesty's Government. Looking at the despatch of the 30th of April, and the despatch the other day sent to Mr. Dallas, I think that while Her Majesty's Government have been jealous of the honour and dignity of this country they have shown an earnest desire to maintain unimpaired the friendly relations of the two countries. They have done nothing by any hasty, harsh, or even unguarded expression which places them in the wrong, in case any of these affairs shall not be brought to a satisfactory and peaceful result, and I believe that the effect of the despatch of the 30th of April was most satisfactory in the United States, although it did not produce in the mind of the President the effect with which it was hoped the assertions of Mr. Crampton and the consuls, as to their not having violated the laws of the country, would have been received. Her Majesty's Government felt that those assertions were entitled to infinitely greater weight than the evidence adduced against those Gentlemen. That evidence has been completely thrown over to-night. Every Gentleman has said that the characters of the witnesses were such that they could not be believed upon their oaths, and no Gentleman has ventured to quote anything said by them, unless it was corroborated by some evidence of an unimpeachable character. It had been exultingly stated that the evidence connecting Mr. Crampton with these proceedings showed that he had been in communication with Stroebel and Hertz. No doubt the fact was so; but those persons, when they first came forward to interfere in this matter, were utterly unknown to Mr. Crampton, to Sir Gaspard le Marchant, and the other officers of Her Majesty's Government. They professed to be in pursuit of a legitimate object, and as there was no immediate means of ascertaining their character, their integrity was taken for granted, and it was never suspected that they would turn out to be men undeserving of credit whose object was to entrap the English Minister. The friendly feeling of the British Government, and their unwillingness to do anything that could give just cause of offence to the Americans, were evident on the face of every despatch that had issued from the Foreign Office, and in none were they more

conspicuous than in that despatch in which Lord Clarendon intimated that if any recruits had been enlisted in a manner contrary to the laws of the United States they should be sent back without delay. But it did not appear that, in point of fact, there were any such recruits; for the few who had been enlisted were men who had come forward freely and of their own accord, and without persuasion or compulsion from any quarter. The intentions of Her Majesty's Government throughout these transactions, and the motive of their conduct, should be inferred from the general tone and spirit of their correspondence rather than from particular passages carefully selected to make out a case against them. A candid review of all the circumstances connected with the subject would not fail to lead to the conclusion that they had been animated throughout by the best intentions, and that they had had no deliberate purpose of violating either the municipal laws or the sovereign rights of the United States. It was to be hoped that the House would view the question, not with passion or prejudice, but rather by the calm, clear light of reason; and if they did so they would scarcely be prepared to condemn the Government for not having taken the extreme course recommended by the hon. and learned Member for Stamford and others—that of dismissing the American Minister at the Court of St. James's—a gentleman with whom we had no personal cause of offence, and whose presence was desirable in the interests of both countries, inasmuch as he was authorised to enter into negotiations with Her Majesty's Government for the settlement of various important questions. No doubt it was the bounden duty of Her Majesty's Ministers to uphold the honour of the country, but they should also act with forethought and manly prudence, and it would ill become them to plunge two kindred nations in the horrors of war through hasty and ill-considered notions of dignity. The House would most faithfully interpret the feelings of the country by declaring that the national honour was entirely untouched, and that the Government in adopting moderate and conciliatory counsels had acted in the manner best calculated to promote the interests of both nations.

SIR FREDERIC THESIGER: Sir, I just wish to correct an error into which the right hon. Baronet fell, in supposing that we complain of the Government for not resenting the indignity offered to them—for not retaliating on the Government of the

United States for sending back Mr. Crampton by dismissing Mr. Dallas. We never stated anything of the kind. What we stated was this—that by the conduct of the Government in infringing the laws of the United States in the way they had done, the Government have compelled us to submit patiently to the insult that has been offered us.

SIR JOHN WALSH moved the adjournment of the debate.

VISCOUNT PALMERSTON said, he objected to an adjournment. He considered that there was ample time to bring the discussion to a satisfactory conclusion that evening.

Motion made and Question put, "That the debate be now adjourned."

The House divided:—Ayes 110; Noes 220: Majority 110.

Question again proposed, "That the words proposed to be left out stand part of the Question."

SIR JOHN WALSH said, that considering the lateness of the hour, and the certainty that the debate must be adjourned, the exultation of hon. Members opposite at the result of the division was, he thought, rather misplaced. They had not yet heard many leading Members of that House, to whose opinions the country, as well as that House, looked with interest upon a subject so important. None of his right hon. Friends near him, nor several hon. and right hon. Gentlemen opposite, to whom the House always listened with interest, had as yet spoken, and therefore he did not think he had been premature, at twelve o'clock, in moving the adjournment of the debate. However, since the House has resolved to continue the discussion at this late hour, he bowed to its decision, and would briefly state the reasons which must oblige him to vote for the Motion. It must be remembered that it emanated from an hon. Member with whom he (Sir J. Walsh) had no political sympathies, nor should he, perhaps, in the delicate state of our American relations, have himself originated such an one. But, it having been brought forward, he had no option but to express an opinion upon it, however reluctantly. Finding that his vote was asked upon the question, whether the conduct of the Government in its transactions with the United States was such as to meet the approbation of that House, and whether it had been such as to maintain the honour of the country, he should not shrink from expressing his opinions. Having listened to all the argu-

Sir Frederic Thesiger

ments that had been put forth on behalf of the Government, he could not withhold his support to the Motion of the hon. Gentleman (Mr. G. H. Moore). The hon. and learned Attorney General seemed to regard the dismissal of our Minister by the American Government as a proceeding in no degree offensive towards this country. Unless, however, such an act were based on some sufficient reason, it must be an insult either to the Minister individually, or to the nation which he represented. It was one thing if our Minister had become distasteful to the Court to which he was accredited for some reason of a purely personal nature; and quite another thing if the offence laid to his charge was the adoption of a particular policy in the discharge of his official functions. In the latter case it became a question, whether his conduct had been authorised by his Government. If it had been so authorised, the fault did not lie at the door of the Minister, but at that of the Government of which he was but the instrument. Be that, however, as it might, our Government, by permitting Mr. Dallas to remain, had, he apprehended, acquiesced in the slight cast upon them by the United States. Without condemning their conduct in Mr. Dallas's regard, it was yet obvious that their only justification for not dismissing the American Minister was, that they felt they had been in the wrong towards his country, and that the indignity offered to us was merited by their own *laches*. If two private individuals quarrelled, one of them might frankly admit that he had been in fault, and accept the reproof administered to him in consequence; but if the rebuke was undeserved, his submission would be pusillanimous. The position of our Government appeared to be that of men who felt that they had been in the wrong, and they were in this paradoxical position, that their having been in the wrong in the original dispute furnished their only excuse for submitting to the mortifying reproof of Mr. Crampton's dismissal. The speech of the right hon. Baronet the Secretary of State for the Home Department had been from beginning to end, in his opinion, nothing but an ingenious piece of special pleading. The right hon. Gentleman had laboured to establish a distinction between the evasion of the law of the United States and a direct infraction of its letter. The President and Mr. Marcy both declared the systematic evasion of their neutrality by our enlistment agents to be as great an affront as

its open infringement; and certainly an adroit and even successful evasion of the spirit of her neutrality laws could not be regarded as the fulfilment of the obligations due from one friendly State to another. He was, therefore, forced to vote for the Motion of the hon. Gentleman the Member for Mayo, for he felt that the conduct of the Government had placed this country in a humiliating position before the world. By acquiescing in the dismissal of Mr. Crampton, they had acknowledged themselves to be in the wrong; and an expression of opinion on the part of that House under those circumstances, so far from throwing obstacles in the way of a satisfactory adjustment of the differences between the two countries, was calculated, he believed, to facilitate that happy issue.

Mr. MILNER GIBSON then moved the adjournment of the debate.

VISCOUNT PALMERSTON said, that if the Motion for an adjournment was to be repeated in that way at that time of night, he could have no alternative but to agree to it: yet he would do so on the distinct understanding that the discussion should be resumed to-morrow.

Debate adjourned till To-morrow.

GRAND JURY ASSESSMENT (IRELAND) BILL.

Order for Third Reading read.

Bill read 3^o.

On the Question that the Bill do pass.

COLONEL FRENCH proposed some additional clauses, which, after some brief conversation, were withdrawn.

Mr. MACARTNEY proposed a Clause relative to the duties of a contractor for any county work or the repair of roads, and also defining the powers of the country surveyor.

Clause was added to the Bill.

Mr. FORTESCUE moved to insert, after clause 3, the following clause:—

"In making such applotment, the treasurer shall omit therefrom every tenement consisting wholly or in part of a dwelling-house, the total annual valuation of which tenement, as set forth in such final list or in such revised valuation as aforesaid, shall not exceed the sum of three pounds.

Clause brought up, and read 1^o.

Mr. MACARTNEY opposed the clause. He did not think it would work well.

LORD NAAS and the ATTORNEY GENERAL FOR IRELAND also opposed the clause.

Motion made, and Question put, "That the clause be now read a second time."

The House divided:—Ayes 32; Noes 109; Majority 77.

Another Clause added.

Bill passed.

The House adjourned at Two o'clock.

HOUSE OF LORDS,

Tuesday, July 1, 1856.

MINUTE.] *Sat First in Parliament.*—The Marquess of Ailesbury, after the Death of his Father; The Lord Boston, after the Death of his Father.

PUBLIC BILLS.—1^a Intestates Personal Estates; Grand Juries (Ireland); Drainage (Ireland); Exchequer Bills (£4,000,000); Marriage and Registration Acts Amendment.

2^a Registration of Voters (Scotland).

BURIAL ACTS AMENDMENT BILL.

Order of the Day for the Second Reading read.

Moved, That the Bill be now read 2^a.

THE ARCHBISHOP OF CANTERBURY was understood to say that he entertained strong objections to some of the clauses of this measure, which involved questions of much gravity and importance connected with the recognised rights of the clergy; and suggested that the Bill should be referred to a Select Committee upstairs.

Amendment moved to leave out from "That" to the end of the Motion, and insert "The Burial Acts be referred to a Select Committee, to consider and report thereon to the House."

LORD PORTMAN agreed that the course recommended by the most rev. Prelate was likely to avoid a very disagreeable discussion. He (Lord Portman) could have no objection to submit the question before their Lordships to a Select Committee, and he trusted that the result would be a restoration of that harmony which existed before the present unfortunate course of legislation embodied in the Burial Acts was adopted. He should be sorry that any hasty attempt at amendment should lead to an extension of ill-will, and he was therefore ready to withdraw this Bill and submit the whole subject to a Select Committee.

THE EARL OF MALMESBURY entirely agreed with his noble Friend opposite (Lord Portman), that the course suggested by the most rev. Prelate was the best that could be adopted under the circumstances. There was only one serious object in view,

and that was to prevent any increase of dissension in the course pursued. He hoped that when the Select Committee met upstairs, difficulties might be arranged. Afterwards, those who were fond of discussion and polemics would get the Act of Parliament instead.

LORD REDESDALE said, the principle involved in this Bill was one which he hoped no noble Lord would for a moment support. He was surprised that any one of their Lordships should propose such a Bill, the effect of which was to make the Secretary of State judge of what the Bishops ought to do in a matter purely ecclesiastical; and, further, to enact that when a burial-ground had been so constituted as not to meet with the approbation of the Bishop of the diocese, or of the Archbishop of the province, the Secretary of State might approve it.

Motion, as amended, *agreed to*; and the Bill was (by leave of the House), *withdrawn*.

EXPENSES OF SCOTCH AND IRISH PEERS.

THE EARL OF DONOUGHMORE rose to call the attention of the House to the heavy expenses incurred by Irish Peers in proving their right to vote for Representative Peers. The Fourth Article of the Act of Legislative Union thus describes the persons who should vote for Representative Peers :—

“ Every temporal Peer of Ireland who shall have sat, and voted in the House of Lords for Ireland, and whose right to sit and vote therein shall have been admitted by the House, before or after the Union.”

To the former class it was not necessary for him to refer, as only two Irish Peers existed who sat in the Irish House of Lords before the Union. The great majority of the present constituency of the elective Peers of Ireland were persons who had proved their right to vote. He submitted that the expenses of proving their claims were both excessive and unnecessary. In order to show that those expenses were excessive, he would adduce the course of proceeding when an English Peer took his seat. He merely sent a simple document to the Lord Chancellor to show his right; and, the Lord Chancellor satisfied, he took his seat. In the case of a son succeeding his father, the whole expense scarcely exceeds £5. The Irish Peer, on the contrary, had to adduce evidence before the Committee for Privileges of his

The Earl of Malmesbury

right. He (the Earl of Donoughmore) was present on a Committee for Privileges, when a noble Earl proved his right to vote as an Irish Peer. The case was rather complicated. The pedigree was produced for a considerable number of years, involving several lines of descent; a number of persons, clergymen, both of the Establishment and of the Roman Catholic Church, produced the registers; and unless those had been produced, the claim to vote would not have been substantiated. The expense of bringing witnesses from a great distance in these cases was very great; and a serious question, he urged, was involved in the circumstance. The Irish Peerage was closely approaching the position contemplated by the Act of Union. The number of Irish Peers, including those who had not as well as those who had proved their right to vote for representative Peers, was 123. It was plain that it was the intention of the Act that the Irish Peers should be kept up to a certain number; but the expense was now beginning to interfere with that intention and setting it aside. In many cases, where there was no doubt whatever, the claimants were deterred by the expense from proving their claims. He did think that there existed nothing which should prevent the Irish Peers entitled to vote for Representative Peers, being put in as favourable a position for proving their right as British Peers enjoyed for proving their right to seats in that House. He would ask their Lordships to appoint a Select Committee to inquire into the subject, and to report what could be done to remedy this manifest injustice to a large class of Members of that House—for many of their Lordships, though sitting as English Peers, possessed votes for Irish Representative Peers, and were therefore as deeply interested in this subject as the whole body of Irish Peers. The noble Earl concluded by moving that a Select Committee be appointed to inquire into the expenses incurred by Scotch and Irish Peers in proving their right to vote for Representative Peers.

THE LORD CHANCELLOR said, that he quite admitted that it was desirable to reduce the expenses incurred by Irish Peers; but it was quite impossible to adopt the course suggested by the noble Earl without passing an Act of Parliament, because the Act of Union provided that the claims of the Irish Peers were to be determined by the House of Lords. In the case of English Peers this was dif-

ferent. They had merely to go to the Lord Chancellor, representing not that House, but the Crown; and if he, on the part of the Crown, saw no difficulty, the writ of summons was issued. He did not think that it would be possible to reduce the expenses of proving a claim to vote for the Representative Peers of Ireland as low as those now incurred by English Peers on taking their seat, but he fully concurred in the propriety of appointing a Committee to inquire into the subject, and to ascertain what reductions could be effected.

VISCOUNT DUNGANNON corroborated the statement made by the noble Earl—namely, that these heavy expenses deterred many Peers from claiming their right to vote. He thought the matter was well worthy of their Lordships' consideration, and he was sure the Irish Peers in general, whatever might be the result of this inquiry, would feel greatly indebted to the noble Earl (the Earl of Donoughmore) for the part taken by him in this matter.

LORD REDESDALE said, the sole remedy for the evil complained of was an Act of Parliament which should establish some other mode of inquiring into claims made to vote in the election of Irish Representative Peers. But he questioned very much whether it was desirable to relax the evidence now required before claims of this kind were admitted, because a great number of cases of a suspicious character came before a Committee of Privileges.

THE EARL OF DONOUGHMORE said, the case of injustice made out on the part of the Irish Peers had not been in any way answered by the noble Lord. To show how the system worked he might mention his own case. It cost him less than £5 to take his seat as an English Peer, but to prove his right to vote for an Irish Representative Peer cost him £150. He would ask their Lordships whether in these days of financial reform this state of things ought to continue?

Motion agreed to.

House ajourned to Thursday next.

HOUSE OF COMMONS,

Tuesday, July 1, 1856.

MINUTES.] PUBLIC BILLS.—2° Militia Ballots Suspension; Turnpike Acts Continuance; Court of Chancery (Ireland) (Receivers); Court of Appeal in Chancery (Ireland).
3° Advertisements.

PRISONS (IRELAND) BILL.

Order for Committee read.

MR. MACARTNEY rose and said, that whilst he admitted that there was a necessity for an alteration of the law affecting the management of gaols in Ireland, the present measure went further than was desirable, and he trusted the Government would give some assurance before going into Committee that they would not carry out the centralisation principle to the extent to which the Bill proposed to go. The power of framing regulations for the government of gaols was at present vested in the Judges of the Court of Queen's Bench; but by this Bill it was proposed to transfer that power to the Lord Lieutenant, which was virtually to place it in the hands of an irresponsible person—namely, the Chief Inspector of Prisons. Seeing how well and efficiently the gaols in Ireland were now managed in the north, and especially in the province of Ulster, he hoped the Government would not deprive the several boards of management of the jurisdiction they now exercised and possessed.

MR. HORSMAN said, that the object of the Bill was merely to introduce into Ireland that system which already existed in England and in Scotland, by transferring the superintending power over the gaols from the Court of Queen's Bench to the executive. The Bill merely followed the precedent of England and Scotland.

COLONEL FRENCH said, that the fact of transference made all the difference. The Bill was one of a series of most objectionable measures referring to Ireland that were being forced through the House.

COLONEL DUNNE said, that at present the jurisdiction of the Queen's Bench over the prisons was ineffectual, and therefore, in transferring that jurisdiction to the Executive, the Bill might be so far considered an improvement. He thought the House ought to go into Committee on the Bill in order to amend many details which were objectionable.

House in Committee, Mr. FitzRoy in the chair.

Clauses 1 and 2 *agreed to.*

On Clause 3, which transferred the power of superintendence from the Court of Queen's Bench to the Lord Lieutenant being read,

MR. MACARTNEY said, it had been represented that the Judges of the Queen's Bench had expressed their approval of the transfer of the authority now vested in

them ; but he had recently seen a letter from one of their Lordships to the effect that he had taken the opinion of his brother Judges, who not only denied that they had been consulted on the subject, but expressed their disapproval of the power being taken out of their hands. If the clause were passed in its present shape it would give all power, in fact, to Mr. Corry Connellan, the Chief Inspector of Prisons. He would, therefore, move, as an Amendment, that the words "and Privy Council," be inserted after "Lord Lieutenant."

MR. HORSMAN objected to the proposition as contrary to the principle of Executive Government, which should be the same in Ireland as it was in England. He was quite satisfied with the inspectors in Ireland, and he thought they might safely trust to the Lord Lieutenant.

MR. MACARTNEY denied that he had any personal distrust either of the Lord Lieutenant or of the inspectors.

COLONEL DUNNE did not see practically much difference between the Lord Lieutenant in Council and the Lord Lieutenant himself. The Executive must be responsible for the proceedings of the Inspectors General, who could get what was necessary from the Queen's Bench.

COLONEL FRENCH thought the Amendment would be satisfactory to the Irish people.

LORD NAAS highly approved of the transfer from the Court of Queen's Bench. He could only remember one case in which the Queen's Bench ever did anything. As to the difference between the Lord Lieutenant himself and a Council, it practically amounted to nothing at all. But although he approved of the principle of the Bill, he never saw a Bill drawn up so unintelligibly.

Amendment *negatived*; Clause *agreed to*.

Clause 4 (Board of Superintendence, with approval of Grand Jury and Lord Lieutenant, to make By-Laws, &c.)

MR. MACARTNEY objected to the mode in which the clause dealt with preceding measures. One of its provisions was to give the Lord Lieutenant control over the by-laws of the gaols. He did not think that this would work. All by-laws ought to be under the control of the boards themselves.

MR. HORSMAN said, that the Bill was not drawn by the present Government, and they thought it the best plan to adopt

Mr. Macartney

the Bill, and pass another in the next Session to amend it.

MR. BLAND said, the practical effect of the clause would be to place the whole power of managing the prisons in the inspectors, and take it from the boards of superintendence.

SIR GEORGE GREY: The 26 Geo. IV., c. 38, regulated the government of prisons in England and Wales, and the Secretary of State had by it the power of making rules and regulations. This was to ensure uniformity in those rules. If the Irish Government discharged its duty, the whole power would not, as had been said, rest with the Inspectors of Prisons. He saw no reason why the same power should not rest with the Lord Lieutenant in Ireland as with the Secretary of State in England.

MR. MACARTNEY said, if there were the same kind of officer in the Irish Office as there was in the Secretary of State's Office in England, he would be perfectly content; but unfortunately there was no such officer to whom the Irish country gentlemen could refer.

CAPTAIN MAGAN objected to the arbitrary forms of the clause.

COLONEL FRENCH said, if the object of the Bill was to assimilate the Irish to the English law, why were not the words of the English statute quoted by the right hon. Gentleman the Secretary of State for the Home Department put into this Bill?

SIR GEORGE GREY said, the provisions in the Statute he had quoted were analogous to those in the present Bill, though not the *ipsissima verba*.

Question put, "That the words 'and it shall be lawful for the Lord Lieutenant' stand part of the clause."

The Committee *divided*: — Ayes 66; Noes 9: Majority 57.

MR. MACARTNEY said, that their only object was to preserve the right of the boards of superintendence. He proposed, therefore, that if the Lord Lieutenant required any alteration in the by-laws, he should submit a proposal to that effect to the board. He should move an Amendment to that effect on bringing up the Report.

MR. HORSMAN thought this contrary to the principle followed in England.

COLONEL FRENCH moved to omit the word "repeal," so as to give no more power to the Lord Lieutenant than that given to the Secretary of State in England.

MR. HORSMAN objected to the Amendment, which was negatived without a division.

Clause *agreed to*.

Clauses 5 to 9 were then *agreed to*.

Clause 10 *agreed to*, after a short discussion.

Remaining clauses *agreed to*.

House resumed.

Bill *reported*, as amended.

DUBLIN METROPOLITAN POLICE BILL— ADJOURNED DEBATE.

Order for resuming Adjourned Debate on Second Reading [9th June] read.

COLONEL FRENCH asked the right hon. Gentleman the Secretary for Ireland whether it was right to force this Bill upon the city of Dublin, when its inhabitants had made such strong representations against the objectionable powers the Bill would give, especially to the Commissioners of Police?

MR. MAGUIRE thought nothing could be more fair than the offer which had been made on the part of the corporation of the city of Dublin to refer the Bill to a Select Committee. It was impossible at this late period of the Session to pass such a Bill, considering the strong opposition that existed against it.

MR. BEAMISH said, he did not see the use of referring the Bill to a Select Committee.

LORD NAAS said, his right hon. Friend on a former occasion had stated that this Bill was merely a consolidation of the existing laws; but the city of Dublin distinctly denied that statement. He certainly, himself, understood that there were decidedly new provisions in the Bill of a very important character. Considerable additional power would be given to the Commissioners of Police in regard to the licensing system. It was, therefore, not correct to say that it was merely a consolidation Bill. He thought the Bill ought to be referred to a Select Committee.

MR. HORSMAN regretted that so strong a feeling of opposition should exist against this measure, and he did so the more because every objection that had been taken only showed how completely in the dark hon. Gentlemen were as to the provisions and object of the Bill. He would repeat that it was a consolidation Bill, and nothing else. If any hon. Member could show that any new power was contained in it, so far was it from the intention of the Government that it should

be so that in Committee he would strike out any such power. At the same time, no doubt, the corporation of the city of Dublin, from misconception, entertained a strong hostility against the measure, and as it appeared to be the general opinion on the part of Irish Members that the Bill could not be passed into a law this Session, he did not think, under the circumstances, he should be justified in taking up the time of the House in discussing the measure further. He therefore moved that the order for the second reading be discharged.

Order *discharged*; Bill *withdrawn*.

COLONEL LAKE AND COLONEL TEESDALE—QUESTION.

MR. OLIVEIRA rose to ask Her Majesty's Government whether some substantial mark of approbation might not be given to Lieutenant Colonel Lake and Lieutenant Colonel Teesdale for their distinguished services at Kars?

VISCOUNT PALMERSTON was understood to say that Colonel Lake's position as a colonel in the army would enable him to receive the Order of the Bath; but it was not usual, as he had observed on a former occasion, to recommend Parliament to make any pecuniary provision for any officers except those who had the good fortune to be at the head of the forces by which a distinguished achievement was accomplished.

HOUSEBREAKING IN SCOTLAND— QUESTION.

MR. COWAN asked the Lord Advocate if his attention had been drawn to the recent alarming increase of the crime of housebreaking, caused, as he believed, by the ticket-of-leave system, in certain parts of Scotland, and to the difficulty hitherto experienced in its suppression; and whether, under those circumstances, it was the intention of the Government, by the revocation of tickets of leave, by the establishment of a Scottish constabulary, or otherwise, to afford a greater measure of security to property than was at present possessed in some districts of Scotland?

THE LORD ADVOCATE said, he knew nothing of the circumstance referred to by the hon. Gentleman, except that, according to the newspapers, last year a great many cases of housebreaking occurred, but all the depredators had, he believed, been apprehended. The subject of the ticket-of-leave system was now under the con-

sideration of a Committee of the House ; and with regard to the establishment of a Scottish constabulary, the subject was now under the consideration of the Government.

DEPARTMENT OF PUBLIC JUSTICE.

THE CHANCELLOR OF THE EXCHEQUER moved that the notices of Motion be postponed till after the adjourned debate on the Amendment for going into Committee of Supply.

MR. NAPIER said, he had had a Motion on the paper since the Easter recess for an Address, praying Her Majesty to take into consideration the formation of a separate and responsible department of public justice, and he thought it rather hard that no opportunity had been afforded him of bringing it before the House. On the 12th of February a Resolution had been agreed to—

“ That, in the opinion of this House, as a measure of administrative reform, provision should be made with a view to secure the skilful preparation and proper structure of Parliamentary Bills and promote the progressive amendment of the laws of the United Kingdom.”

Since that time the Statute Law Commissioners had presented their Report, in which they recommended the appointment of a single responsible person to superintend the amendment of the law, with adequate assistance, nothing had been done, and our legislation had been getting worse and worse.

SIR GEORGE GREY said, the right hon. Gentleman was not correct in saying that nothing had been done since the date to which the right hon. and learned Gentleman referred. If the debate for the adjournment of which the right hon. and learned Gentleman had voted had been concluded last night, the right hon. and learned Gentleman might now have brought forward his Motion, and his right hon. Friend the Chancellor of the Duchy of Lancaster, who was a member of the Statute Law Commission, would have stated what the Government had done and what they proposed to do. If the right hon. and learned Gentleman would on a future day put a question on the subject, his right hon. Friend would make a statement which would enable the right hon. and learned Gentleman to judge whether it would be worth while to bring forward his Motion, but it would be quite impossible for the Government to allow that Motion at once to be carried.

Motion agreed to.

The Lord Advocate

OUR RELATIONS WITH THE UNITED STATES — ADJOURNED DEBATE (SECOND NIGHT).

Order read for resuming Adjourned Debate on Amendment proposed to be made to Question [30th June]—

“ That Mr. Speaker do now leave the chair ;” and which Amendment was to leave out from the word “ That ” to the end of the Question, in order to add the words “ the conduct of Her Majesty’s Government, in the differences that have arisen between them and the Government of the United States, on the question of enlistment, has not entitled them to the approbation of this House,” instead thereof.

Question again proposed, “ That the words proposed to be left out stand part of the Question.”

Debate resumed.

MR. MILNER GIBSON, who said that he had ventured to move the adjournment of the debate last night because he felt that whatever doubt might exist as to the propriety of this discussion coming on at all, there could be no doubt that, if once the discussion was commenced, it ought not to be prematurely or abruptly concluded, and that all Members, either on one side of the House or the other, who were desirous of speaking, should have an opportunity of stating their views. Some hon. Gentlemen had made an appeal to the hon. Member for Mayo not to bring on the Motion, feeling that no good would arise from the discussion, and that perhaps some evil would be occasioned by it. He confessed that he was reluctant himself, on other grounds, that the Motion should come on ; but he could not conceal from himself that there was no Parliamentary ground whatever for shrinking from the fullest discussion. Whenever a Minister of the Crown laid papers before Parliament and correspondence with foreign Governments at the close of a negotiation, he by that act invited the opinion of Parliament, and any hon. Member was at liberty to bring those papers under consideration. Therefore he did not think that the Government had any right to complain of hon. Members discussing this question. If publicity were objectionable in reference to these recruiting proceedings in the United States, the Government should not have courted publicity by laying these papers before the world ; but that having been done, it might be pretended by some that silence on the part of Parliament implied acquiescence in the course taken. At any rate, as the Motion was now before the House, it was impossible for any Gen-

tleman, anxious on public affairs, to feel it to be consistent with his duty to shrink from recording his vote on the subject. What was the nature of the Motion? The House was called on to say whether the operations carried on in America by Her Majesty's Government, for the purpose of raising soldiers to serve the Queen of this country, met with its approval; whether the policy was wise, of going to the United States in search of soldiers; and, if wise, whether that policy was judiciously and properly conducted? He was one of those who was opposed altogether to the Foreign Enlistment Act. He believed it to be unsound in principle, and he entertained a strong conviction, looking at the state of the municipal laws of the countries to which recourse was likely to be had for men, that any attempt to act on it would lead to serious international disputes. He expressed that conviction at the time, but he admitted that, as the question now stood, he was not to allow his opinion on the Foreign Enlistment Act, which received the deliberate assent of Parliament, to bias his judgment in reference to the conduct of the Administration in endeavouring to give effect to that Act of Parliament. No doubt it was the duty of the Executive—Parliament having consented to pass the Bill into law—to give effect in some form to the intentions of the Legislature. Nevertheless, he understood the right hon. Gentleman the Home Secretary to insinuate that hon. Members would be influenced by their opinions with respect to that Act in forming a judgment on the conduct of the Government, and he thought the right hon. Gentleman said that the speech of the hon. Member for Inverness-shire was one which might have been, and probably was, delivered against the Foreign Enlistment Act. There was a statement of the right hon. Gentleman in his speech last night, in reference to the Blue-book, in which he could not concur. The right hon. Gentleman said that the friendly feeling of the British Government, and their unwillingness to do anything to give just cause of offence to the American Government, were evident on the face of every despatch issued from the Foreign Office. The right hon. Gentleman added:—

"They have done nothing by any hasty, harsh, or even unguarded expression which places them in the wrong, in case any of these affairs shall not be brought to a satisfactory and peaceful result."

Such was the description which the Home Secretary gave of the contents of the Blue-

book, but he could not concur in thinking it a true description. On the contrary, he found passages in the despatches of Lord Clarendon than which he could conceive nothing more insulting to the United States of America, or more calculated to produce irritation and bad feeling. He found in a despatch from Lord Clarendon to Mr. Crampton, dated November 10, 1855, that the former stated:—

"Mr. Buchanan called at this office some days ago, and in a very friendly manner asked me if I should object to inform him why such large reinforcements had been sent to the British squadron on the West India station, as he was apprehensive that when the intelligence reached the United States, it would cause considerable excitement, and tend to increase the feelings of irritation which already existed in that country. I told Mr. Buchanan that I had no difficulty in answering his inquiry with perfect frankness, and that I would, in the first place, assure him that there was no intention on the part of Her Majesty's Government to attack or menace the United States, but that, as we had reason to believe that ships were fitting out for Russia in the ports of the United States, and that a great conspiracy was in progress there for the purpose of promoting insurrection in Ireland, as we knew that a United States' ship had lately taken soundings in the ports of most of the British West India colonies, and that the commander of that ship had privately made minute inquiries respecting the state of the defences and garrisons in those colonies; and as we had received a note from Mr. Marcy to Mr. Crampton, couched in terms so unfriendly that it appeared to indicate a fixed purpose on the part of the United States' Government to provoke a quarrel between the two countries, Her Majesty's Government had thought it their duty to take measures for the protection of British interests against any attack that might be made upon them, and to be prepared for events which they had done nothing to provoke, and which they would still do their utmost to avert."

Now, he denied that it was true that ships were fitting out for Russia in the ports of the United States. The charge was made by Mr. Barclay, British Consul, that one barque ship was fitting out as a privateer for Russia; information was laid to that effect, and the United States' Government at once caused inquiry to be made, and it was found that Mr. Barclay had been misled; that the ship had been advertised for some time in the newspapers as an ordinary merchant vessel; the trade in which she was about to be engaged was ascertained, and Mr. Barclay published in the newspapers a public apology to the effect that he was mistaken, and that there was no foundation for the charge he had brought. Therefore, that statement in Lord Clarendon's despatch was erroneous, and was founded on misinformation; and to state

that, on such a ground, the British Government were about to send out an increase of force, was insulting to a friendly nation. He denied, too, that a great conspiracy was in progress to promote insurrection in Ireland. He denied that such an imputation was properly applicable to the Irish population in the United States of America. A great conspiracy was talked about in a written despatch, about to be followed by an armed invasion of Ireland. Would any man in that House stand up and say on his conscience he believed that? If this were true it was grave indeed, but if it were not true—and the United States did not believe it to be true—could they feel otherwise than deeply aggrieved that it should impute to them that they were allowing this great conspiracy to go on within their territories, and that it should be thought necessary that British men-of-war should be sent to watch their conduct, in order to prevent a hostile aggression from their shores? The fourth charge was, that the commander of an American man-of-war had been taking soundings in most of our West Indian ports. This was an old story. Just before the panic of a French invasion was raised, somebody was reported to have been taking soundings on the coast of Scotland, and there was always some tale of the sort flying about when it was thought necessary to excite apprehension in the mind of the British public. The only meaning which this insinuation could have was, that the United States' Government were contemplating a descent upon our West India Islands, but he declared most solemnly that he did not believe the American Government had ever had any such intention. He could not, therefore, agree with the Government that there was nothing irritating or provoking to the American Government in these Blue-books. On the contrary, charges of this kind were calculated to produce feelings of alienation, to prevent the success of negotiations, and seriously to disturb the good relations between the two countries. The defence of the Government with reference to the particular matter now before the House was, that they had been entirely right in whatever they had done in the United States, that they had broken neither international law nor the municipal law of the country. That was the position taken by the Attorney General, and by the right hon. Baronet the Home Secretary. Seeing, however, that we had got into scrapes in other countries as well as in the United

States in this matter of enlistment—seeing that the Prussian Government had taken a much stronger course than the United States' Government, and without troubling itself about writing despatches and withdrawing *exequaturs*, had put our consul into prison—and that at the Hanse Towns our agents had been very roughly handled, it was just possible that we might have been mistaken in our view of the American law. It certainly would be very strange, to say the least of it, if Prussia, the Hanse Towns, Switzerland, and the United States were all wrong in their interpretation of their own municipal laws, and if we were the only persons who could put a proper construction upon them. Our Government had put their own construction upon the United States' law, and upon that construction they felt at liberty to assert that they had not broken that law. This was a most convenient mode of proceeding. There was no act which a man might not commit if he were allowed to justify himself by pleading that his interpretation of the law which he was alleged to have broken differed from that of his accusers. All that we had done, according to the Government, was "to disseminate information" to those men who were invited to enlist in the British forces. We had gone into the United States with our agents, not to hire or retain any person to go to Canada to enlist in our army, but only to circulate information as to the advantages which persons might obtain by leaving the United States and going to Canada to enlist in the British Foreign Legion. That was all our proceedings had amounted to, according to the Attorney General. Suppose a voter were told, "If you vote for Mr. So-and-So you will receive £10"—that was merely "disseminating information," it implied no contract, and voting was a perfectly legal act; but he doubted whether the Attorney General would put such a charitable construction on that proceeding as he had put on the acts of our agents in the United States. It was obvious that our Government, to suit their own purposes, had put a construction on the American law which rendered it inoperative, but the American Government had put a construction on it, very rationally, which made it operative. They said that no foreign Government should come into the United States to put themselves into communication with individual persons residing within their territory for the purpose of persuading those persons to leave the

United States to enlist in a foreign army. That was the obvious and common sense view of the American law. The right hon. Baronet the Home Secretary had told the House on the previous evening that nobody had been persuaded, but that the very few men (and very few they appeared to be) who had entered our service were men who had come forward freely, of their own accord, without any persuasion from any quarter. The right hon. Gentleman must have been misinformed on this point. Lord Clarendon, in his despatch of November 16, 1855, laid it down distinctly that we had an incontestable right to persuade men to leave the United States to enlist in the Foreign Legion, and that we had a right to make promises to them to induce them to leave the United States; and, if that were so, why should the Home Secretary attempt to deny that there had been any persuasion? He believed, on the contrary, that there had been persuasion, and he differed entirely from the doctrine of the Foreign Secretary that we had a right, according either to international or municipal law, to pursue that system of persuasion. If we could go into the United States with our agents and organise an extensive system of persuading men to leave that country to enlist in our army, then we could exercise there all the powers which the United States' Government could exercise, and, being at war at the same time that the United States were at war, we might enter into competition with their Government with their own territory in raising forces to carry on our war. It was very necessary that the House should be informed whether Lord Clarendon's instructions, that there should be no concealment from the American Government, had been carried out. The hon. Gentleman opposite (Mr. Moore) had insinuated that he could not discover whether any very direct instructions were ever given to Mr. Crampton to practise no concealment from the American Government. If Lord Clarendon had told Mr. Crampton in the first instance to have no concealment from the American Government he would have been taking a wise course, which, if acted upon, would infallibly have spared us from our present humiliating and difficult position. If Mr. Crampton had told Mr. Marcy how he meant to act—that he meant to have agents throughout the country, that promises would be held out to persons to induce them to leave the United States to

go to Canada—and had asked him how such a system would be viewed, he would have been told directly that it was inconsistent with the American law, and that it could not be carried out without giving offence to a considerable portion of the community. Mr. Crampton himself seemed to admit that he had, perhaps, not been without fault in this matter of concealment. He said that on the 22nd of March, the only occasion on which he had any conversation upon the enlistment with Mr. Marcy, he told that Gentleman that applications had been made, and so forth; Mr. Marcy informed him that persons might leave the United States—which of course everybody knew—but that he would enforce the neutrality laws. Mr. Crampton, in his despatch, said that he did not enter upon the bearing of international law, adding, "I can scarcely take blame to myself for not doing so," and then continued:—

"I entirely agree with him, that it was unfortunate that the matter was not mentioned and the difference of our views brought to light. I should not have concurred with his opinion, but I should have thought it matter for grave consideration whether it would not have been better for Her Majesty's Government at once to abandon all idea of accepting aid in soldiers from this country than to run the risk of any difference or unpleasant discussion whatever with the Government of the United States. It is perfectly true that I did not enter into any details of the means which were to be adopted by Her Majesty's Government to render available the services of those who tendered them to us in such numbers. There seemed to be obvious reasons for abstaining from this, even if it had occurred to me. I should have been unwilling to do anything which might have borne the appearance of engaging Mr. Marcy in any expression of favour or approbation of a plan favouring the interests of one of the parties in the present war."

If Mr. Crampton abstained from informing Mr. Marcy of the means by which the services of these men were to be rendered available to the British Government, he, in fact, abstained from telling him anything which was worth knowing. Everybody knew that men had a right to leave the United States, and that the British Government had a right to establish recruiting depôts in Canada or Nova Scotia. The difficulty was, how were men living in the territory of the United States to be brought to these depôts? In not informing Mr. Marcy of the means by which it was proposed to effect that object, Mr. Crampton failed to comply with the instructions of Lord Clarendon,—“above all, have no concealment from Mr. Marcy.”

Had he informed Mr. Marcy of the exact means intended to be employed, Mr. Marcy would have told him that the use of such means was out of the question, and would render it necessary that a prosecution should be instituted against his agents. It was so strongly denied that anything wrong had been done, that he supposed the House must presume that the Government would see no objection to a repetition of these operations. Was that the case? He did not see why he should desist from doing what he had a right to do, and could not understand all the talk about having apologised, and all the wonder that the United States were not satisfied, if we had never done anything wrong. If our acts were to be justified we ought to avow and stand by them. He would not encourage the Government to surrender our rights in any part of the globe; but he did not believe that in the territory of the United States we had any such rights as we had claimed. If there had been no municipal law in existence, if the United States had passed no law with reference to enlistment, the Government of England would have had no right to put itself in communication with the citizens of the United States, for the purpose of levying forces, without the previous consent of their Government. The true view of international law, as he understood it after a perusal of the works of the best writers upon this subject, was, that Governments should correspond with Governments, diplomatists with Ministers of State, but that they should not, through agencies of questionable character, put themselves in communication with individual citizens, in the meantime keeping all their proceedings secret from the Government of the country to which they were accredited. If there were no municipal law at all, one Government must not act within the territories of another in such matters without the full consent of the latter. The right hon. Baronet the Secretary of State for the Home Department said that nothing had been done which was plainly and clearly a violation of the municipal law of America, but he admitted that there had been some money stirring in the business. When he (Mr. Gibson) heard of money payments, he always doubted the voluntary action of those who had come forward. He had recently read a pamphlet published by a gentleman who had been in the United States, and had made accurate inquiries into all these matters, and who said that we had spent between

Mr. Milner Gibson

£30,000 and £40,000, and that the net proceeds of the operations were about thirty-seven Germans, who had therefore cost somewhere about £1,000 a piece. He believed these were the very men who had lately been mutinying in Plymouth, who had disturbed the garrison of that town, and whom the authorities were afraid to trust with their arms in the streets. A more miserable and impotent result it was impossible to conceive; but how Ministers of State could ever recommend that we should go across the Atlantic into the United States in pursuit of Germans, he was at a loss to understand. There was a talk of British subjects and political refugees; but almost the only persons whom attempts were made to obtain in America were for the most part the German emigrants, who, it was said, were in distress, and would be likely to join the German legion. It was very doubtful whether a single British subject was recalled to his standard, as it was called, or whether any person was obtained except these Germans, and, perhaps, some few Poles and Hungarians. The right hon. Baronet the Secretary of State for the Home Department had taken a most extraordinary view of the question. He said,—

“That some persons were paid, who had gone to Halifax with the expectation of being received as recruits in Her Majesty’s service, and were not so received in consequence of the determination to abandon the scheme altogether, in deference to the feeling of the United States’ Government. Money was paid to them, not for the purpose of enlisting them in Her Majesty’s service, or for the purpose of inducing them to go anywhere, but merely to reimburse them for their loss of time and expenses incurred in a fruitless journey.”

So that the House was told that the Government paid not those who enlisted and rendered their services, but those who came too late and were of no use to us. This seemed very strange. How was it possible to conceive that, unless these men had had some previous claim upon the Government, they would, after all recruiting had been given up, have received these payments? He would undertake to say that, when applications were made to the Government for places or employment, and they had none to give, they did not reward the applicants for having made a “fruitless journey.” He very much doubted whether some contract had not been entered into with these men in the United States, and therefore the Government had felt bound to repay them for going to Halifax to join the foreign legion, after the depôt at that place

had been abolished. There was, however, pretty direct evidence that there was a contract between the agents of the Government and those persons in the United States. He did not speak particularly of Mr. Crampton. He put Sir Gaspard le Marchant, the Hon. Joseph Howe, and Mr. Crampton all in the same category as having joined together to superintend the carrying out of recruiting operations in the United States. He found among the papers the following letter from the Hon. Joseph Howe to Major Joseph Smolenski:—

“ Boston, April 28, 1855.

“ My dear Sir,—Referring to the conversations which we have had as to the policy of the British Government, as explained to you, and to the wishes of the Gentlemen associated with you, as you have explained them, I have now the honour, by command of the Lieutenant Governor of Nova Scotia, to authorise you to raise in that province a regiment to form part of the foreign legion, upon these terms:—You shall be colonel of the regiment when raised. Mr. Souckorowski shall be major. The commissions of captains and lieutenants will be given to such officers as you may select. The fares and passages of the men will be paid or provided by my agents at Boston or New York. Four dollars per man will be paid to your order in Boston for any man shipped thence. If any, on their arrival, refuse to enlist, you will find another to take his place. Men who are in debt, or who may live beyond New York, may pay their debts or additional expenses by order on the provincial secretary in Nova Scotia, to be deducted from the bounty of thirty dollars which each man is entitled to receive.

“ I have the honour to be, my dear Sir,

“ Your obedient Servant,

“ JOSEPH HOWE.”

“ Major Joseph Smolenski.”

To that letter Major Smolenski replied as follows:—

“ Boston, April 28, 1855.

“ My dear Sir,—I have read the annexed letter, a copy of which has been furnished to me, and I undertake to serve Her Majesty the Queen upon the terms as therein explained.

“ I have, &c.,

“ JOSEPH SMOLENSKI.

“ Hon. Joseph Howe.”

Surely, if ever there was in this world a valid contract for raising a regiment that was one. What, then, could be the use of denying that even persuasion had been used to promote such an object? Here was something far beyond persuasion. If the object contemplated had been legal, the transaction would have involved a contract binding on the respective parties. It would have been a “hiring and retaining” according to the words of the American law, and it required no straining of phraseology to bring it within the terms of that definition. Mr. Mathew, the consul, admit-

ted that he paid money to Hertz. Why did he do so if the latter was nothing more than a self-constituted and unauthorised agent? In the despatch of Consul Mathew to Mr. Crampton, bearing date “Philadelphia, October 13, 1855,” there was a passage which could not be interpreted otherwise than as an admission that Hertz received money from the consul. It ran thus:—

“ At his (Hertz's) earnest request I transmitted a sealed letter to Mr. Howe, and handed him a reply, containing, I believe, money, for which he gave a receipt made out to Mr. Howe, and enclosed by me to him.”

In replying to the despatch from which that sentence was extracted, Mr. Crampton used these remarkable expressions:—

“ I have satisfaction in assuring you that I can see nothing in any of your proceedings in regard to this matter which appears to me to be incorrect or derogatory to your office.”

It was clear, therefore, that Mr. Crampton took upon himself the responsibility of Mr. Mathew's acts, and by approving his conduct made the consul's cause his own. It appeared, moreover, that Hertz was on terms of intimate familiarity with Mr. Mathew, and occasionally burst in upon him with ludicrous abruptness. Mr. Mathew, in his despatch of October 13th, wrote—

“ On one occasion he forced himself into my presence without sending up his name, in my bedroom, stated he was going on most important business to see Mr. Howe at New York, and ended by asking me, under many oaths and protestations, to lend him as a private loan 50 dollars, which I did to get rid of him. He has not fulfilled his pledge of repayment.”

Assuming that Hertz was not in the pay of the British consul, how could an incident such as this have possibly happened? Had the Government incurred expense in defending Hertz and his associates in the American Courts? Had they wrangled about law points with the law officers of the United States, and spent much of the public money in carrying on what Mr. Marcy had properly designated as “most unseemly contests?” It were much to be wished that some Member of the Government would rise in his place and authoritatively deny that they had done so; for if these men had been defended by the Government, and if the Government had incurred expense in that respect, such a course of proceeding must be regarded as a practical avowal that the men were to all intents and purposes their agents, and that for their acts they (the Government) were responsible. But, in truth, the matter was so clear as not to admit of controversy.

Mr. Crampton had himself confessed that he had furnished Stroebel with money, and sent him into the United States to procure recruits. The sums were said to be trifling, and the exact purpose to which the money was to be applied was not stated in Mr. Crampton's confession, but to give money to a man like Stroebel, and to tell him that he might have a *carte blanche* to wander through the States in search of recruits, was to render himself responsible for Stroebel's proceedings. Whatever that man's character might be, he was for all practical purposes the servant and agent of Mr. Crampton. In his despatch to Lord Clarendon, dated Washington, November 27, 1855, Mr. Crampton made the following singular statement:—

"I arrived at Halifax on the 11th day of that month. It was here that Stroebel, who had already brought with him some men from New York and Boston, and who appeared to be well acquainted with the condition and desires of his own countrymen in the United States, positively asserted that he knew many hundreds of Germans in the cities and country in the vicinity of the Great Lakes who only required to be informed of where they could be received in Canada, and to be supplied with the small sum which would cover their travelling expenses, immediately to present themselves on British territory for enrolment in Her Majesty's service. That plan was adopted."

From that it was manifestly to be inferred that Stroebel was authorised by Mr. Crampton, and supplied with money to raise recruits in various districts of the United States. That proceeding he (Mr. Gibson) deemed to be contrary, not only to the spirit, but to the letter of the American law, and he very much regretted that Her Majesty's Government should have mixed up this country in such transactions. He could conscientiously assert that, as an Englishman, he deeply deplored it. If he were now a traveller in the United States, he should feel that his Government had involved him in the liability of some unpleasant remarks being made to him; for, unfortunately, every Englishman abroad was compromised by the conduct of his Government. He repudiated most emphatically the proceedings of the Government, and greatly lamented that any attempt had been made to raise men in America, and that, when that policy was decided on, the Government had not pursued a candid course, and put themselves in frank communication with Mr. Marcy and the other American Ministers. It had been said that Judge Kane had given a sort of sanction to the proceedings of the Government by

Mr. Milner Gibson

admitting that the payment of travelling expenses did not involve an infringement of the law. Of course it did not *per se* constitute a violation of the law, but "the mutuality of understanding"—to use Judge Kane's expression—between Mr. Crampton and his agents, that the reason why the expenses were paid was, that men might be induced to leave the States for the purpose of being enlisted in the service of a foreign Power—that it was that constituted the essence of the offence, as amounting to "a hiring and retaining." The following passage from the judgment delivered by Judge Kane in Hertz's case showed, with sufficient significance, the opinion which that learned person had formed on the conduct of the British Government, viewed as a whole—

"Our people and our Government have been accused of forgetting the obligations of neutrality, and pushing ourselves forward into the conflicts of foreign nations, instead of minding our own business as neutrals, and leaving belligerents to fight out their own quarrels. For one, I confess that I felt surprised, as this case advanced, to learn that, during the very time that these accusations were fulminated against the American people by the press of England, there was, on the part of eminent British functionaries here, a series of arrangements in progress, carefully digested, and combining all sorts of people, under almost all sorts of influences, to evade the laws of the United States by which our country sought to enforce its neutrality; arrangements matured, upon a careful inspection of the different sections of our statutes, ingeniously to violate their spirit and principle without incurring their penalty, and thus enlist and send away soldiers from our neutral shores to fight the battles of those who were incontinently and not over courteously admonishing us to fulfil the duties of neutrality."

Such was the opinion of Judge Kane on the whole case, and assuredly it did not tell in favour of Mr. Crampton or his agents. It was to be hoped that our relations with America would not long feel the effect of these unfortunate differences. It was most important that the people of the United States should understand that the people of this country were not backing up Her Majesty's Government in a deliberate violation of the American laws of neutrality. Nothing would so much tend to keep the two nations on friendly terms as the belief that this was merely a question as between Mr. Marcy and the Ministry of the day in this country, and not as between the American people and the English. It amounted to no more than a personal difference between the Ministers of the two countries. The Ministers of Her Majesty were responsible to the House of Commons, and it was

the duty of that House to pronounce an opinion upon their conduct. It was no business of his to sit in judgment on the conduct of Mr. Marcy, Mr. Cushing, or President Pierce. He did not undertake to defend all their acts, or the spirit in which they had conducted their part of the correspondence; and, indeed, he should be prepared—if it could be done legitimately—to agree in a vote of censure upon Mr. Cushing. But, he repeated, it was not within his province to pass a sentence on the Government of the United States. His duty lay with the Government representing the community to which he belonged, and his deliberate opinion was, that they had not done well for the interests of England in picking this miserable poultry quarrel for the sake of raising a few German recruits in the territories of the United States. It was to be regretted that the present Motion came before the House as an Amendment on going into Supply, as it might enable hon. Gentlemen to avoid delivering their judgment on a grave international question. It would be much better if a plain substantive Resolution had been submitted to the House, and they had been called to vote "Aye" or "No" on the question—"Do you approve of the conduct of Her Majesty's Government in endeavouring to raise soldiers in the United States?" [An hon. MEMBER: *We do.*] In conclusion, he had only to thank the House for the kind indulgence it had extended towards him.

Mr. BAXTER said, that as he was intimately connected with the United States in a commercial point of view, and it had also been his good fortune to spend a considerable time in that country, in order to make himself acquainted with its social and political institutions, he trusted he might be allowed to make a few observations. He was not one of those who felt any jealousy of the power of America—on the contrary, he rejoiced in its consolidation, and even in its extension. He had no sympathy whatever with those who regarded the great republic, not as a child to whom we had ourselves given birth, and in whose prosperity we ought therefore to take a deep interest, but as a rival whose progress we ought to curb and to check. It was much to be regretted that so many persons on this side the Atlantic could not distinguish between the people of the United States and the mob, between the farmers and merchants in whose society an Englishman would immediately feel himself at home, and those noisy dema-

gogues and trading politicians into whose hands, he said it with sorrow, the government of the country had of late fallen. The Government of the United States had no doubt many faults, and its constitution many defects, which all wise men must see with apprehension and regret. The change of the President and the subordinate officers every four years, the payment of Members, and the state of the naturalisation laws, were circumstances calculated to embroil the Union with foreign Powers and to lead to numberless intrigues. At the same time he would exhort Englishmen, abandoning our natural proneness to find fault with the institutions of other countries, to look upon the shortcomings of America with that magnanimity and forbearance that so well befitted a country standing in the relationship which England bore towards them. Turning to the subject immediately before the House—for his own part, he confessed that if he had any bias, when he sat down to peruse the correspondence that had been laid upon the table, that bias was in favour of the Government of the United States—not that he regarded the honour of America above the honour of England, but he did feel that there was at times a disposition on the part of British statesmen to misconstrue the policy of our trans-Atlantic kinsmen. A calm, dispassionate, and very careful study of the Blue-book, however, had thoroughly convinced him that the House of Commons had no ground upon which to pass a vote of censure on Her Majesty's Government, such as was implied by the Motion before the House. It seemed to him that the Motion of the hon. Member for Mayo was unjust both to Mr. Crampton and to Her Majesty's Government. He did not stand there as the apologist for either, and he would cheerfully admit that there were things in the conduct of both of which he did not entirely approve; but he denied that either Mr. Crampton or Her Majesty's Government had been guilty of conduct that deserved the censure of Parliament. In the first place, he should never cease to feel surprise, that when Mr. Crampton received the legal opinion which he procured as to the operation of the neutrality laws—he did not wash his hands of the whole business, and advise Her Majesty's Government, by the first steamer, to relinquish a measure which threatened to embroil us with a friendly State. Mr. Crampton also led Her Majesty's Government to believe that he had fully and freely told Mr. Marcy

what were their intentions; and, therefore, if any one was to blame, it was that gentleman rather than the Government. He thought it was also to be regretted that Mr. Crampton, when he saw the impracticability of the scheme, did not take upon himself to put an end to it, instead of grumbling at the feeling which perseverance in it excited in the American Government. But it must be obvious to all—and he confidently appealed to the generosity of the House on this point—that the error of Mr. Crampton was an error of judgment and not of intention, and that he had no disposition to offend the American Government, or to break the American laws. He had, in short, as the right hon. Gentleman the Member for Bucks (Mr. Disraeli) had observed, done his very best to do his duty to his Sovereign and his country. He would further put it to the House whether, if the American Government had only treated the matter in the same friendly spirit, and had not shown an evident desire to fasten a quarrel on some one, the dispute would never have been permitted to assume the formidable magnitude which it had since done. With regard to Her Majesty's Government, that Lord Clarendon had never used an unguarded expression, he (Mr. Baxter) would not assert; but no sooner did the noble Lord discover that the enlistment scheme was a mistake, than he atoned for it in the fullest, frankest, freest, possible manner. As for the language of which the right hon. Gentleman (Mr. Gibson) complained, he would not deny that Lord Clarendon's despatch certainly contained some unadvised expressions; but they had obviously been provoked by language of a similar character held by Mr. Marcy against the British Government. The right hon. Gentleman (Mr. Gibson) said that, besides the passages in the despatch to which he was alluding, there were many similar ones in Lord Clarendon's other correspondence. Well, he (Mr. Baxter) fearlessly challenged the right hon. Gentleman to point out one such passage. The right hon. Gentleman said, it was an act of absurd folly to send to America to enlist Germans; but the order was, in the first instance, given by the right hon. Gentleman the Member for Wiltshire (Mr. S. Herbert), who had no doubt friends enough in that House to defend the policy he thus originated. The right hon. Gentleman had referred to the opinion of Judge Kane. But there were two opinions of Judge Kane. The last was, no doubt, very strongly in favour of the

Mr. Baxter

American Government, and, perhaps, Judge Kane had had good reasons for changing his views; but, nevertheless, the fact remained that his first opinion was one very much calculated to mislead both Mr. Crampton and Her Majesty's Government. The English Government had certainly had a most difficult game to play. Both the district Attorney of Virginia and Mr. Attorney General Cushing—not newspaper editors, be it remembered, but officers of the Federal Government—and in their official capacity made use of language of the most insulting and most offensive nature towards the British Government. The right hon. Gentleman said, he was not prepared to defend that language; but he (Mr. Baxter) would go further, and say that it was language which in most civilised countries must have necessitated the instant removal from office of those who uttered it. The great thing the House of Commons would, after all, have to consider was, whether in the conduct of these negotiations Her Majesty's Government had behaved in a friendly and conciliatory spirit towards the Government of a country with which the people of Great Britain must always desire to be at peace? For his own part, he could not conceive any unprejudiced and candid person rising from a perusal of the Blue-book and answering other than in the affirmative. He had no doubt that the feeling of friendliness which the people of this country entertained to America was reciprocated by the respectable classes in the United States. He believed, moreover, that though certain politicians had been vapouring and blustering about war with England, it was civil war—war in Kansas—war, the result of the system of slavery—which all the time they feared. The very men whose names had been most prominent—Mr. Cushing and the present Secretary for War—at the time the Mexican war was going on, opened offices in Canada for recruits, and they had allowed whole shiploads of armed men to leave American ports to go and interfere with the Government of Nicaragua. A dislike for England was just now a political necessity with certain classes in the United States; but he had listened to the whole of the debates in the American Senate on the Oregon question—he had attended the democratic meetings in all parts of the Union—and he did not believe that the devices of politicians would ever be allowed to create hostilities between the two countries. He believed that the general sentiment of the whole nation was

against it; and the real strength of America, the honest and substantial citizens, had three or four times interposed to prevent the schemes of the politicians. He believed they would do so again, for they were satisfied that a war with England would be in the highest degree disastrous to both the belligerent parties.

Mr. PEACOCKE said, he wished to offer a few observations upon the arguments which had been used by two members of the Government in last night's debate. Those arguments were, first, that the conduct of Mr. Crampton was free from blame; and, next, that it was inopportune to raise a discussion upon this subject at the present moment. With regard to the last argument, he would ask, what then would be the proper time for raising the question? The hon. Member for Inverness-shire (Mr. Baillie) had, at a very early period of the Session, placed a notice upon the paper referring to the enlistment of troops in America; but when he proposed to bring that Motion under discussion, he was invariably met by the objection that negotiations were still pending. Negotiations were, however, no longer pending; they had terminated in a manner most humiliating to this country; yet if such subjects were not to be discussed while negotiations were pending, nor when negotiations were closed, the effect would be to prevent the House from expressing an opinion upon the foreign relations of the country, and to exempt the Foreign Minister from Parliamentary control and responsibility, however culpable his conduct might have been. As to the argument that Mr. Crampton was perfectly blameless, he would ask hon. Gentlemen who maintained that position, how it was, if such were the case, that Mr. Crampton had been sacrificed and abandoned by the Government? They had been told yesterday by the hon. and learned Attorney General that Mr. Crampton's conduct on the enlistment question was perfectly free from blame, and that the only evidence against him was that of men of abandoned character. He (Mr. Peacocke) believed, however, that no hon. Member on that side the House wished to advance a single fact upon the testimony of Hertz and Stroebel which was not entirely confirmed by other evidence, and even by the admissions of Mr. Crampton himself. Mr. Crampton admitted that he corresponded with Stroebel in cipher; that he had given instructions to various persons as to the best mode of enlisting; that he furnished Stroebel with instruc-

tions for evading the municipal law of the United States; and that he went to Halifax for the purpose of organising the system of enlistment. Such admissions showed that Mr. Crampton had violated the spirit, if not the letter, of the municipal law of America. He was able to show that this was not an insulated act of indiscretion on the part of Mr. Crampton, but part and parcel of a policy that had been deliberately planned and organised by the Government at home, and deliberately carried out by its agents abroad. He would not quote the law of Prussia on this subject, for it was analogous to that of the United States and our own, but he would call the attention of the House to the case of our consul, Mr. Curtis, who had been prosecuted at Cologne for a violation of that law. He had perused the judgment of the court of the district in that case, and found in it the following statement with reference to Mr. Curtis:—

“That he furnished those anxious to enlist not only with information as to the conditions of enlistment, but even detailed instruction as to the mode in which their entry was to be effected, and what course must be pursued to effect this end; and furnished them with cards to his agent, Boyer, the publican, who on the strength of them was to provide for their free board and means of going forward. That he furthermore pictured in glowing colours the rank in the service, the high pay they would receive, and gave them advances of money for facilitating their journey, and lastly cautioned them to be aware of the police.”

What was this but the very system pursued by Mr. Crampton towards the Government of the United States? And what was the defence of Mr. Curtis? Did he plead not guilty? No; but he pleaded that the acts of which he had been convicted were done in his official capacity and under the instructions of the British Government. But, after all, this question might be reduced to the simplest of alternatives—was Mr. Crampton right or wrong? If he was right he ought to have been upheld, and Mr. Dallas dismissed; if wrong, he ought to have been recalled. If Mr. Crampton was right, the conduct of the Government was indefensible; if he was wrong, the conduct of any Government which should appoint him to any situation would be as indefensible; and if, in the last alternative, the noble Lord should think to purchase connivance in an unjust disgrace by the promise of impossible promotion, he would tell them both that the eyes of the House of Commons were upon Mr. Crampton. England had

received an insult and an affront which she was either not in a position or had not the courage to retaliate; and what would the public opinion of Europe say—the public opinion of that Europe, throughout which, in the language of England's last apologist, De Montalembert, "the insufferable arrogance of England had called forth the indignation of the majority of thinking men"? Why, it would say that that same England, which had insulted Spain until she resented it, which had menaced Naples, and intimidated Greece, and which had even the courage to make war upon Russia when she had France for an ally—now, at the first act of hostile aggression from the United States, plucked from her brow at the menace of the strong, the laurels which she had gained by the intimidation of the weak. And by whom had this humiliation been inflicted on the country? Why, by the Cabinet of the noble Lord, the orator of Romsey, and the rhetorician of the Mansion House. The Minister who declared he would make the English as respected as the Roman citizen, yet who had failed to obtain for the representative of his Sovereign the immunity from insult which he declared he would command for the meanest of her subjects. He (Mr. Peacocke) did not know whether the blood flowed warmer in the veins of the sexagenarian Secretary of 1848, than in those of the septuagenarian of 1856; but, when Sir Henry Bulwer was dismissed in 1848 from Madrid, M. Isturitz, the Spanish Ambassador in this country, received his passports, and the Government of that day refused even to receive the Minister (Count de Mirasol) who was sent to explain why Sir Henry Bulwer was dismissed. The noble Lord the Member for the city of London recited the other night the cases of the Ambassadors who had been sent away from Washington; but there was a marked difference between those instances and the present. The acts for which those Ministers were dismissed were repudiated and disavowed by their respective Governments, whereas the conduct of Mr. Crampton had been defended and maintained by his Government; and he believed this was the first instance in which the dismissal of a Minister whose acts were approved by the Ministry at home, had been tamely acquiesced in by the Government which he represented. But if this case were to be quoted as a precedent hereafter, he still hoped there was enough

Mr. Peacocke

of English feeling in this House to repudiate the petty policy of a system which may have been learned amongst the *Camarillas* of Madrid, which may have been improved in the ante-chambers of Dublin Castle, but which could never be allowed to sow the seeds of small intrigue between two great countries like England and America.

MR. SPOONER said, he had last night expressed his great regret that this subject should have been brought forward, and every speech he had heard since, every argument which had been used, and every document read to the House, had only increased that regret, and led him the more deeply to deplore the course taken by the hon. Member for Mayo (Mr. G. H. Moore). His hon. Friend the Member for Inverness (Mr. Baillie), from patriotic motives, had given up his notice; but the hon. Member for Mayo had no sooner found an opportunity than he had rushed in to supply his place. The hon. Member for Mayo had a perfect right to take the course which he had done, but, doubting the wisdom of it, he could not follow the hon. Member. That hon. Gentleman last night chose to represent him (Mr. Spooner) as frequently, amidst cheers from both sides of the House, denouncing casuistry and equivocation, and called upon him now to denounce the papers under consideration as being of that character. He could assure the hon. Gentleman that he was as averse to casuistry and equivocation as that hon. Gentleman himself, and he was glad to hear the expression he (Mr. Moore) had now used, and he should have been still more glad if he had, in addition, joined with him (Mr. Spooner) in denouncing what he had so often done—jesuitry; but for reasons best known to himself, he had omitted so to do. He would not enter into the merits of this case, as he believed the more it was discussed the more danger would attend the discussion; but there was one point to which he would allude which had not been adverted to by any speaker. It was said we had broken the law of the United States and greatly irritated the Government of that country; but what said the American Government? Why, they acquitted our Government altogether. ["No, no!"] No, no! Why they said distinctly that they acquitted our Government of any intention to insult them; and he would say that a person who could not make a difference between an intentional and unintentional insult did not know what ought to be the conduct of

a Christian or a gentleman. He would not say that Mr. Crampton had been dismissed in the most courteous manner, but he would say that, if the Government had refused to accept the dismissal of Mr. Crampton, considering the offers with which it was accompanied, the whole country would have resounded with a cry of indignation. The American Government said they could not treat with Mr. Crampton, but they were ready to treat with us, through Mr. Dallas, on the subject of the Central American question; and, if the Government had refused such an offer, they would, in his eyes, have been guilty of a most desperate crime, and would probably have involved the two countries in a most lamentable war. He would not enter into the merits of the question, for, although he had listened attentively to the various speeches which had been addressed to the House, he could not pretend to understand the legal arguments sufficiently to justify him in giving an opinion between the Attorney General and his hon. and learned Friend the Member for Stamford (Sir F. Thesiger). But this much he did understand—that in the event of our being obliged to go to war with America, it was of vital importance that England should be in the right; and certain he was that our Government would not have been in that position if they had not taken the greatest pains to avoid a hostile collision with the United States. He believed that our Ministers would have been to blame if they had resented the dismissal of Mr. Crampton by sending away Mr. Dallas. The eyes of the country were upon them, and his opinion was, that if the people of England were polled to-morrow an overwhelming majority would be found in favour of the maintenance of cordial relations with the United States. For his own part, believing that the discussion was premature, he would give his vote against the Motion of the hon. Member for Mayo, reserving to himself the right, upon some more convenient occasion, to canvass freely the conduct of Her Majesty's Government.

MR. GLADSTONE: Sir, the speech which has just been delivered by my hon. Friend marks a feature in this debate so important and so much connected with the vote that I shall probably myself give at its close, that although I am likely upon a division to go into the same lobby with the hon. Member, yet I think there is no impropriety in my following him in discussion.

It appears to me that the two cardinal aims which we ought to keep in view in the discussion of this question are peace and a thoroughly cordial understanding with America for one, the honour and fame of England for the other. I am bound to say that in regard to neither of these points am I satisfied with the existing state of things, or with the conduct of Her Majesty's Government. A cordial understanding with America has not been preserved; the honour of this country has been compromised. Sir, I am not one who will set up the phantasm of honour in a case where the plea appears to me unreal, or who will condescend to separate between honour and the honourable conduct of which it ought to be the symbol. But as respects the honour of England, I assent—I cannot but assent—to the statement of the hon. and learned Gentleman who has already spoken from an opposite bench (Sir F. Thesiger), that what is considered by the world to be an insult—that which, at any rate, cannot but be called an insult—has been put upon England by the Government of the United States. Has it been put with or without a cause? If with a cause, it ought to be confessed; if without a cause, it ought to be resented. Sir, I am bound to say that upon this question my feelings are of such a nature that it would be impossible for me to meet with a direct negative the Motion of the hon. Member for Mayo. I could not say “No” to a Motion which states that the conduct of Her Majesty's Government, in regard to enlistment in America, has not entitled them to the approval of this House. Nor do I mean simply to take my stand, when I say I am likely to vote with the hon. Member for North Warwickshire (Mr. Spooner), upon the circumstance—though it is an important one—that we are not called upon to say “Ay” or “No” to that question. The question which you, Sir, will put from the chair, that we should go into Committee of Supply, gives to the matter the technical Parliamentary aspect of what is called the “previous question;” but at the same time, I must say that I do not concur in the censures which have been bestowed upon the hon. Member for Mayo with respect to the time of bringing forward his Motion. Yet the question is one of the greatest difficulty. I cannot say that there is no inconvenience attending a Motion which criticises or assails the conduct of Her Majesty's Government engaged in transactions with a foreign country.

But, before deciding the question whether the hon. Member for Mayo is open to the severe censures which have been cast upon him, we must consider whether the papers which have been laid on the table do or do not make us acquainted with all the facts of the case—whether the misunderstanding with America has not gone beyond the point of mere diplomatic communication, and has assumed form and action in the face of the world, and whether the House itself, or at least those individual Members who have familiarised themselves with the contents of the Blue-books, will not by declining to take this opportunity of expressing their opinion upon them become parties to the approval of the conduct of Her Majesty's Government? For myself, Sir, I frankly own that I have felt the greatest difficulty in considering the question what vote to give upon the present occasion. I never recollect a question more difficult as pressing upon my own understanding and conscience. But with my knowledge and experience of this House, I am convinced that those who feel with me cannot do better than throw themselves on the indulgence of the House, stating fully the difficulties which they experience, exposing themselves, if need be, to adverse criticism, but relying with confidence upon the generous forbearance of the House to put a fair construction upon their language. At any rate, after what I have said, I shall state in intelligible language why it is I expect to find myself voting with the hon. Member for North Warwickshire. My hon. Friend stated, at the commencement of this discussion, that he deprecated the beginning of it as likely to injure the interests of peace, and he likewise characterised it as a party question, casting some discredit upon it on that account. Is it, then, in point of fact, a party question? Why, I appeal to his own example against his precept. He himself has risen in his place and declared that he will vote against the Motion of the hon. Member for Mayo. So far that is an indication that it is not a party question. Again, within the last few minutes the right hon. Gentleman the Member for Manchester (Mr. Gibson), who, I apprehend, does not belong to the same political school as the hon. Member for Mayo, has declared his intention to support the Motion. But if my right hon. Friend and the hon. Member for Mayo are making it a party question, on behalf of what party are they raising it? Is it of the party opposite? Does the hon. Member

Mr. Gladstone

for Mayo belong to the school of the right hon. Gentleman the Member for Buckinghamshire (Mr. Disraeli)? Why, Sir, it is quite plain this is not a party question. And, Sir, I am bound to say that, in my opinion, that is a vital element in the consideration of the case. Disapproving the conduct of Her Majesty's Government in the management of the foreign enlistment question, I say here that I should be ready to express that disapproval by vote, if I saw a Motion to that effect made by a party ready to be responsible for the consequences of success. Now, Sir, I say to the hon. Member for Mayo, without the slightest disrespect, that these questions of votes of censure upon Governments are matters of great importance, and that in considering them, we must look not merely to the terms in which they are framed, but likewise to the quarter from which they emanate. I mean nothing disparaging to the hon. Member for Mayo—I look merely to the terms of his Motion; but are we to regard his Motion as the declaration of a party ready to be responsible for the results of its adoption, or is it merely the expression of the opinion of individual Members of this House who can have little influence upon the division, and who, if the Resolution were carried, could not themselves be responsible for the consequences? I think, Sir, it is a good practical rule in Parliamentary discussions that we should not by our votes weaken the hands of Governments unless we are prepared, if the result of the division should prove adverse to them, to displace them from office. I think it is not desirable in these foreign transactions that the Government should be assailed by votes that tend to weaken their influence on behalf of their country, unless they are moved by those who would become responsible for carrying those opinions into effect; and I merely state what is notorious to all the world, when I observe that no great party in the House can be held responsible for carrying the Resolution of the hon. Member for Mayo into effect, should the vote of the House resolve his question in the affirmative. For a vote of censure on the Government, as an abstract Resolution, I am not able to vote; but if the Motion had come before me supported by those who were ready to carry out the principle it embodied, I should have felt it my duty to give effect to my opinion. But then I may be asked, "Why, admitting that we ought not to weaken the hands of the Government in carrying on

their difficult negotiations with a foreign country—why do you enter upon this discussion and express opinions contrary to the course taken by the Government?" My answer is plain. I have no choice, after the turn which this debate has taken. [An Hon. MEMBER made a remark, which was inaudible.] My hon. Friend says, I am going to speak one way and vote another. Sir, I can only repeat in reply to that charge, that I cannot vote in favour of a Motion which, if carried, would only weaken the hands of the Government without leading to any practical result. I believe it to be a wise rule that votes of censure on the Government should only be proposed by those who are able to give effect to the principle contained in those votes; and if the opportunity were such as would enable the House, if it should come to a decision adverse to Her Majesty's Ministers, to give due effect to that decision, I should not shrink from giving my vote in accordance with that opinion; but as matters stand, I shall vote for going into Committee of Supply. The state of things with which you have to deal is this:—Upon the British Minister the penalty of dismissal from Washington has been inflicted. As far as the honour of this country is concerned, the state of things is therefore unsatisfactory. As far as regards the American Government, what is its condition? Was the breach with America closed up by his dismissal? Will any man say that he believes it is? If it were right to retain Mr. Dallas, why do you keep our diplomatic relations in a state of half animation. Why do you not appoint a successor to Mr. Crampton? I can conceive no reason for not sending away Mr. Dallas, that does not equally prove that you should appoint a successor to Mr. Crampton. If the American Government had no cause to justify them in dismissing Mr. Crampton, why do you retain Mr. Dallas as the Minister of the United States at this Court? If they had a cause to justify them, why do you not admit that they are right and send a successor to fill Mr. Crampton's place? My right hon. Friend the Secretary of State for the Home Department having spoken last night, I presume we are in possession of the views of the Government, and the Government were not content to debate this question except upon its merits. My hon. Friend the Member for North Warwickshire said he would not enter upon the merits of this question, and that is a per-

fectly consistent measure for me to take or for my hon. Friend to take. But the Government have entered upon the discussion upon the merits of the case. That was a manly course, and I do not find fault with it. Whether it was a prudent course I am not so sure. But they declared their adherence to all that has been done and stated during the whole progress of this painful discussion. Nothing can be more explicit than the declarations they have made to this effect. The Attorney General declared that, whereas there had been charges against the Government of violating both international law and the municipal law of the United States, he denied both those charges, and denied that either law had been violated. My right hon. Friend the Secretary of State for the Home Department was even bolder in his manner of dealing with this subject than the Attorney General. He said that the officers of the Government had acted up to the spirit of the instructions that they had received. He said that no acts had been done contrary to the American law, and that the apologies made to the United States' Government did not admit that such acts had been done, because her Majesty's Government felt all along that no wrong had been done. So that the doctrine of the Government is, that their proceedings are justifiable on their own merits. I am certainly not prepared to be responsible for that opinion by the side of the evidence in this Blue-book. I believe, indeed, that such an assertion is made in the teeth of the plainest evidence in every page of these documents. That is not only my opinion, but I believe it is, in effect, the opinion of a great many of the Members of this House who have given their time and labour to the perusal of these Blue-books. Small is, I fear, the number who answer to that description. There are many things that the English people will do. They will sign petitions; they will attend meetings; they will get up agitations; they will pay taxes, and double taxes if need be. But Blue-books they will not read. That is the case, also, with hon. Members of this House. I say, fearlessly, that the Attorney General has not read these Blue-books. That is a fair challenge, and I will show that the references of the Attorney General to these books—references evidently supplied to him at second hand—betray that he has never entered upon the study of these important documents. To return, how-

ever, to the points to which I was addressing myself. I will remind the House that the effect of the declaration now made by the Government will be to keep alive the recollection of the differences which, with respect to the enlistment question, exist between this Government and the Government of America, and I am not prepared to assent to the opinion of those who say that it is not desirable to remove the affairs connected with the American Government from the hands of those who have hitherto conducted them. On the contrary, I think that no Government is so little qualified to conduct these negotiations with America to a successful result, because of the differences that have prevailed, because of the course of combined obstinacy and weakness which the Government have pursued, and because the recollection of these differences, kept alive by the course they have taken in this debate, must of necessity form an unfortunate introduction to those negotiations with respect to Central America which are now pending. My right hon. Friend the Secretary for the Home Department stated in a fair and candid manner a point of great importance. I refer to the supposed apology of the British Government to the authorities of the United States. It has often been said that the American Government cannot complain, because, if any wrong has been done them, it has been covered by a handsome apology. But that is not the language of my right hon. Friend. He did not say that if any wrong had been done to the Government of the United States it had been covered by an apology. On the contrary, my right hon. Friend said, with the greatest candour and truth, that the apology offered to the United States' Government had always been a conditional apology, and was not an apology that implied or admitted that a wrong had been done, because Her Majesty's Government, having been fully conscious that they had done no wrong, had not offered an apology that supposed that a wrong had been done. My right hon. Friend stated these were the apologies that had been made. They have been repeated in various despatches. They all run in one form—they may be summed up in these words, "The British Government would regret deeply if, either intentionally or unintentionally, they have done a wrong to America; but they have not done a wrong to America." If no wrong had been done I grant you that an apology so

Mr. Gladstone

couched ought to be accepted, and that it would be a frank, generous, and conciliatory step, going as near as possible to meet the views of the American Government. But if a wrong has been done, such an apology is no apology at all. Whether a wrong has been done, therefore, is the question upon which we have to fall back. I maintain that if a wrong has been done, that wrong has not been atoned for by the apology. Let me say two things, which will shorten my part in the discussion. In the first place, I will not, as a general rule, quote from these Blue-books, but for every word I utter I am ready, if called upon, to repeat the chapter and verse. If I do not quote *verbatim* from these Blue-books it is because it would be unreasonable in me to trespass upon the indulgence of the House. In the next place, I shall forbear to discuss questions of international law, not that I think it unimportant, because I hold that no position is less defensible and no position less tenable than that we may exclude the question of international law from the consideration of this subject from the frivolous reason that the Americans have a municipal law. But as the case is clear upon the municipal law, I am ready to confine myself to that in the practical view of the case which I have prescribed to myself. I am sorry to say that the propositions that I have to support, as embodying my conscientious convictions, are unfortunately propositions which attach very strong blame to the conduct of Her Majesty's Government. Sir, I shall not attempt to qualify these opinions by any expressions of regret. These things are of little value in hostile discussion. It is better for a man to speak out what he has to say, leaving it to those who may follow him to contradict, correct, or expose him if he has made statements or expressed opinions not supported by the facts. What I have to say is this: In the first place, so far as I can judge, concealment was practised towards the American Government in respect of the enlistment question; and, in the second place, not only was concealment practised, but the American Government were deluded and misled by representations, which I do not say were intended to mislead, but were evidently such that they must mislead, if properly considered. I say this—that the municipal law of the United States was not only broken, but it was broken in defiance of the advice of those who were

chosen as counsellors—it was knowingly broken on the part of the agents of the British Government. I do not say that in these papers is to be found the proof that this was done under the direction of the British Government. In that respect I venture to differ from the hon. Gentleman the Member for Mayo; and, permit me in passing to say, I could not but listen with regret to the observations expressed from the Treasury bench, not only on those portions of the speech of the hon. Member for Mayo in which he introduced, by way of illustration, certain passages from Irish history, but on the general tendency of that speech to throw blame on one particular Member of the Cabinet. I must say, in justice to the hon. Member for Mayo, that although it may be good tactics to strive to keep out of view one's own incapacity by introducing exciting matter, the hon. Gentleman has no cause for any such expedient, because he has amply proved, by argument, his full ability to deal with the merits of the question. But I differ from the hon. Gentleman in that point. I think he stated these things were done under the direction of Her Majesty's Government. I confess I do not discern that on the face of the papers. But, in my view, it matters little whether they were done under the direction of the Government or not, if the Government made themselves parties to the acts by their subsequent approbation. And here, Sir, I cannot help regretting deeply the injustice done to Mr. Crampton by the hon. Member for Montrose (Mr. Baxter). One proposition that I state with the greatest confidence is this—that injustice was not done to Mr. Crampton by any Member of the Government, but it was done by the hon. Member for Montrose. The hon. Member, with his regard for America, was not willing to inculcate America; and, with his regard for the Government, was not willing to inculcate the Government. So, following the example of President Pierce, and passing by both the British and the American Governments, he threw the blame upon Mr. Crampton, and said that Mr. Crampton, when he had taken the lawyer's opinion, ought to have stopped the scheme of recruiting of his own accord. I give Mr. Crampton credit for taking a lawyer's opinion. It was a wise and prudent step; but when it is said he should have stopped the scheme of recruiting of his own accord, I ask, was it within Mr. Crampton's province to give

up that scheme? Can it be said that it rested with him to disobey the orders on that subject which he had received from the Government of which he was the representative? In my opinion, Mr. Crampton sailed as near the wind as he possibly could; and, in justice to Mr. Crampton, it must be remembered that, when he had taken the opinion of a distinguished American lawyer, he sent home that opinion to his Government, and wrote to Lord Clarendon—

“Your Lordship will no doubt perceive that the provisions of the Neutrality Act restrict our operations within very narrow limits.”

I take it that it was a fair intimation that in his opinion the whole thing should be abandoned. That suggestion, unfortunately, was not adopted by the Government at home. Mr. Crampton had then proceeded to act in accordance with what he deemed to be the spirit of the intention of Her Majesty's Government, and the result is that Her Majesty's Government has been unreservedly acquitted by the Government of the United States of the matter, and Mr. Crampton has been dismissed from his post as Minister at Washington. With respect to these circumstances, however, the proposition that I am prepared to maintain is this—that there is not one hair's breadth of distinction between the position of Mr. Crampton and the position of Her Majesty's Government, of which he was the representative. I think, as far as I can judge, that the zeal of Mr. Crampton, and, perhaps, what he believed to be the intentions of the Government, but were not the instructions of the Government, were the source of the evils which have arisen. Everything which Mr. Crampton did was approved by the Government at home; every claim that Mr. Crampton made was maintained by the Government at home, and I entirely decline to draw the least distinction between the original responsibility of Mr. Crampton, as the subordinate person, and the subsequent responsibility of the Government by its unrestricted posterior approval of Mr. Crampton's conduct. But I say that, at first, Mr. Crampton concealed those proceedings from the American Government, and that is a point of great importance. The hon. Member for Mayo has quoted a passage from Lord Clarendon's despatch of the 15th July, in which Lord Clarendon says, that he has instructed Mr. Crampton, above all, to have no concealment from the American Government. My

right hon. Friend the Member for Manchester says, that if that were so, then Mr. Crampton had been guilty of a serious offence in having resorted to that concealment which he had been told to avoid. The American Government, not doubting the assurance conveyed by Lord Clarendon, said the same thing, and laid on Mr. Crampton's shoulders this burden—that, having received strict instructions not to practise concealment, he did practise concealment. The hon. Member for Mayo has stated that there does not appear in these papers any instruction to Mr. Crampton not to practise concealment, and he has called upon the Government to point out to him where that instruction is. The Attorney General followed, and he did not answer that appeal. The Home Secretary spoke later in the evening, and did not answer that appeal. The appeal must be renewed, for this House has a right to know from Her Majesty's Government whether it is true that Lord Clarendon instructed Mr. Crampton to have no concealment from the American Government. If he did so instruct Mr. Crampton, then undoubtedly the American Government are justified in the distinction which they have drawn between the conduct of Her Majesty's Ministers and that of their representative; but, if Lord Clarendon did not so instruct Mr. Crampton, and if the reference in the despatch of July 15 is erroneous, then it is impossible to find words to describe the injustice inflicted on Mr. Crampton—because Mr. Crampton has been made to bear the responsibility of concealment, which the hon. Member for Montrose well said was the fatal error from the outset, whereas the responsibility of that concealment belongs to the Government. I frankly own I think it does belong to the Government, for, although reference is made in the despatch of July 15 to some instruction not to practise concealment, there is no passage in any prior despatch, or, indeed, in any despatch, prior or subsequent, to that effect. The material point in the case is, whether concealment was or was not practised? The hon. and learned Attorney General yesterday evening replied to that question in the negative, supporting his statement by reference to the circumstance that Mr. Crampton had pointed out to Mr. Marcy that the British Government had established, or intended to establish, a depôt at Halifax for the purpose of recruiting. And this is what induced me to say the Attor-

Mr. Gladstone

ney General had not read the papers; because my hon. and learned Friend gave two references to despatches, neither of which contain a word as to the depôt at Halifax; but there happens to be a third extract which does refer to it. I presume the person who prepared the references for the Attorney General had unfortunately placed the wrong figures in the margin, or they were wrongly supplied at the moment, and my hon. and learned Friend, not having read the papers himself, was unable to correct the error. However, it is quite true Mr. Crampton did say to Mr. Marcy that the British Government intended to establish a depôt at Halifax. It is not in the Blue-book, but it is in the 14th page of the last papers presented to Parliament. I think there is no doubt it was mentioned, but it is a fact for which I do not think Mr. Marcy had any great reason to feel obliged, inasmuch as this depôt was the subject of great discussion in the public journals, and it is just possible Mr. Marcy might have acquired a knowledge of its existence without any such communication being made by Mr. Crampton. The question is, did you conceal from the American Government that which was the whole matter and the cause of the complaint? The American Government never complained of the establishment of the depôt at Halifax. There is not a word which implies such a complaint on their part. They knew quite well that the establishment of such a depôt at Halifax, whether prudent or not, was perfectly within the rights and competence of the British Government, and I am perfectly ready to say that I and my right hon. Friend near me (Sir James Graham) are equally responsible for that act in conjunction with the Members of the present Government, because that Resolution was the last step taken within our cognizance before we were compelled to quit the Cabinet of my noble Friend on the question arising on the Motion of the hon. and learned Member for Sheffield. But that was never made the subject of complaint. What the American Government have complained of is the employment of an agency within the United States, not only to give information, but to tempt, to induce by the offer of valuable considerations, the subjects of the United States to go beyond the United States for the purpose of enlisting in our service. That is the subject matter of their complaint, and I want an answer to this question—Did Mr. Crampton tell or did he not tell the

American Government that he, on the part of the British Government, was about to establish such an agency or not? Mr. Crampton says he did not tell the American Government the details. I must say that appears to me an unworthy mode of dealing with a question so important. This is not a question about details. It is a question about a measure, constituting the *corpus* of the complaint on the part of the American Government—namely, the employment of an agency within the United States for the purpose of disseminating information and inducing their subjects to go beyond the United States to enlist in the service of a foreign State. Did Mr. Crampton communicate that or did he not? If not, it is useless to talk of not concealing, when you conceal not a detail but the very head and front of the offending—the very ground and foundation of the whole case. I say, without the smallest doubt, that Mr. Crampton did not communicate any such purpose to the American Government; and I say so, because there is the declaration, express and positive, of the American Government, and because that declaration is entirely contradicted by anything stated on the part of the British Government; and because there is nothing in the statement of Mr. Crampton himself which sustains the allegation that he made such a communication to Mr. Marcy. This fact stands the first great proposition in the case—that the going about to establish an agency within the United States, for the purpose of inducing American citizens to go beyond the border and be enlisted, was concealed from the American Government. That is the charge of concealment, and it will be well if the Government can give some answer to it. But that is not the only charge I have to bring against the Government. There was more than concealment in the matter. I request hon. Gentlemen to look at the 14th page of the last papers which have been laid upon the table, and there they will find that Mr. Crampton, referring to his despatch of the 22nd of March of last year, gives us a large part of a despatch which was not given in the original Blue-book. He there gives his account of his conversations with Mr. Marcy, and states the substance of his communications with that Gentleman. He says:—

“ I took good care to explain to Mr. Marcy, with perfect frankness, our position and intentions as regards this matter. I said, besides reading to him my letter to Mr. Barclay, that we were

certainly anxious to obtain efficient recruits from whatever quarter they should come, and that depôts for enlistment had been established in the colonies, where those who should voluntarily present themselves would be received and enrolled; but to inquiries which had been addressed to me by persons in this country, I had invariably replied by referring them to the provisions of the Act of Congress of 1818, and stating that neither I nor any of the agents of Her Majesty's Government could either ‘enlist’ them in the United States, or ‘hire and retain’ them to go to any of the British dominions, with the intent of there enlisting; that consequently all I could do was to give such persons the information of which I was in possession, as to terms, and the time and place at which they might, if so disposed, be received into the British service, being aware of no law which prevented citizens of the United States or others from emigration from this country, for whatever purpose they might think proper.”

Is that a promise to the American Government? It appears to me to be not only a promise, but a promise of a most solemn character, Mr. Crampton's own communication to Mr. Marcy resting upon Mr. Crampton's allegations now produced by himself in self-defence. Was that promise kept? Did Mr. Crampton confine himself to the communication of information? Is there a man in this House who will rise and say he did so? If he did not, how are we to meet the charge of the American Government, when they say we deceived and deluded them—that we threw them off the scent and induced them to believe that although proceedings were going on in the Union we had nothing to do with them—because they gave credence to our assurance, as conveyed by Mr. Crampton, that whatever agency was employed in the United States it was the agency of unsupported and unrecognised volunteers with which the Government had nothing to do. But was there nothing more? There was a certain Angus M'Donald, who appeared to think that free trade being a very good thing, it might properly be applied to recruiting, and who, upon receiving a remunerative price for the passage, offered to take persons to the British dominions. Well, we laid hold of this convenient despatch to Mr. M'Donald, carried it with great pomp to the American Minister, who read the indignant and almost ferocious terms in which the offer of Mr. Angus M'Donald was repudiated. Upon the very day of the conversation with Mr. Marcy, to which I have referred, this letter was written to Angus M'Donald, and it will not be very uncharitable to suppose it was written for the purpose of being exhibited to Mr. Marcy. It was, however, read by

Mr. Marcy, was regarded by that gentleman as an important fact, and led to the expression of great satisfaction on the part of the American Government. Let me say I was very sorry to hear the criticisms of the hon. and learned Member for Leominster (Mr. J. G. Phillimore) upon the conduct of the American Government upon this subject. If peace be our object, together with the maintenance of the honour of England, I would ask whether the attainment of those objects are likely to be promoted by private Members setting themselves up as judges of the conduct of the American Government? I would not hesitate to give my judgment upon the conduct of that Government if that were the question before us, but it is not. But if it be true that the American Government is "pettifogging and litigious," then I say, instead of that being a reason why we should trample upon the laws of the United States, it is a reason why, if not out of regard for them, at least in consideration for the great country which we represent, we should have held those laws more sacred, and have avoided still more carefully to give so litigious and pettifogging a people the slightest reason for complaint. A comparison has been made between the proclamation of Mr. Angus M'Donald and that of the Nova Scotian Government, and it has been argued that what was against the law if done within the boundaries of the United States was not against the law if done beyond those boundaries. Upon that, all I can say is, I cannot conceive a sorrier answer to the American Government than that things which were not lawful for a man to do because done by a private individual within the dominion of the United States, might lawfully be done by the British Government immediately upon the borders of the United States. But that is not the question at issue. Compare the proclamation of Mr. Angus M'Donald with that of Mr. Wilkins, and with the actual proceedings of the British Government in the United States. Mr. M'Donald disseminated the information that, upon certain terms, he was prepared to send recruits to a British colony. Mr. Crampton and his agents disseminated information, too, and advertisements appeared in German newspapers published in the Union, that persons were required to go abroad—sometimes it was said as mechanics, but everybody understood the kind of machinery they would be expected to use. The only difference was, that they

Mr. Gladstone

provided a free passage, or paid money for the purpose of enabling such persons to go there. Therefore, it stands thus—we actually paraded, in the face of the American Government our condemnation of the unfortunate Angus M'Donald, and thus, perhaps, ruined his innocent and well-intended enterprise, while at the same time we ourselves were doing all that he promised to do, superadding the provision of a free passage, or paid money to meet the expense. I think no one will deny that a Government who by its agents pursued that course, and afterwards signified its approval of their acts, is not only fairly chargeable with concealment, but it is also liable to the charge of having deluded the American Government. Therefore, nothing is more unjust than the charge which is made against the American Government of having at first confined its complaints to the proceedings of unauthorised persons, and subsequently extended those complaints to the British Minister and his subordinates. The American Government at first confined their representations to the unauthorised persons, because it believed the representations which were made to them by the authorised representative of the British Government; but they extended their complaints when they found that those representations were not based upon truth. Aiming as I do at a plain and intelligible statement, I must say that the American Government was deceived by the proceedings of the British Government, and I say we intentionally broke the law of the Union. My hon. Friend (Mr. Spooner) tells us not to judge generally of intentions. I agree with him, except so far as we can infer them from acts, and from these acts we may reasonably infer that we knew what we were about. Mr. Crampton—and I give him credit for it—began his proceedings by taking the opinion of a most eminent American lawyer—one in whom, according to Mr. Crampton's significant description, he had perfect confidence, not only as to professional ability, but also as to political principles—that is to say, a man who, he believed, could confidently be reckoned upon as having no feeling adverse to the interests of Great Britain. That gentleman seems to have given a very wise and prudent opinion; but whether it was so or not, it was one upon which, I conceive, Mr. Crampton was bound to act. Why did Mr. Crampton take that opinion? He himself, at page 131, gives us the reason. He says he took

it because he did not understand the neutrality laws, and therefore he says—

“ I requested an eminent American lawyer, in whose judgment and professional ability I felt entire confidence, to draw up for me an opinion on the subject; and a copy of this opinion I thought it right to transmit to Her Majesty's Consuls in the chief cities of the Union, and a copy of it accompanied my despatch to your Lordship of the 13th of March.”

Now, in this opinion it is distinctly laid down that any person would be found guilty of offending against the neutrality laws who either gave money or money's worth to any other person within the territories of the Union in order to induce or enable him to go abroad for the purpose of enlisting in a foreign service. Why do I say that we intentionally broke the law? I will show you from the declaration of a British officer how he understood the meaning of that opinion. Mr. Lumley, who still remains in America, and who has entirely identified himself with the proceedings of Mr. Crampton, says at page 15, in a letter to Consul Dyer—

“ But a promise to pay the travelling expenses or to provide for the family of any person who may join Her Majesty's service, as proposed by your correspondent, would not deprive such emigration of its voluntary character, but would constitute a violation of the neutrality laws of the United States, and no proposition of this nature can therefore be entertained by Her Majesty's Minister or Consuls.”

So it stands upon these documents themselves that the counsel of the British Government stated that giving either money or money's worth to persons to induce them to go abroad for the purpose of enlisting would be a violation of the law of the United States; and it stands upon these documents, also, that Mr. Lumley, on the 13th of May, representing Mr. Crampton, wrote to Consul Dyer to say that a promise to pay travelling expenses constituted a violation of the neutrality laws of the United States. The meaning, therefore, of these laws, as expounded, was known and admitted by the agents of the British Government. That was on the 13th of May. On that day Mr. Lumley stated a promise to pay travelling expenses would be a violation of the law. Where was Mr. Crampton on the 13th of May. He was at Halifax. What was Mr. Crampton doing at Halifax at the time when Mr. Lumley was thus soundly expounding the American neutrality laws? Mr. Crampton was committing that very breach of the neutrality laws—ay, and something even beyond that—which Mr.

Lumley was denouncing from his office at Washington. If you turn to page 133, you will see that Mr. Crampton begins by saying that he left Washington on the 2nd of May to go to Halifax; that he arrived at Halifax on the 11th; it was there that—

“ Stroebel, who had already brought with him some men from New York and Boston, and who appeared to be well acquainted with the condition and desires of his countrymen in the States, positively asserted that he knew many hundreds of Germans in the cities and country in the vicinity of the great lakes who only required to be informed of where they could be received in Canada, and to be supplied with the small sums which would cover their travelling expenses, immediately to present themselves on British territory for enrolment in Her Majesty's service.”

They required something more than a promise of travelling expenses; they wanted the money in hand; the promise of travelling expenses was declared illegal by Mr. Lumley at Washington—Mr. Crampton at Halifax says—

“ This plan, seeming to me to present a better prospect of success, and at the same time to be unobjectionable as regarded the laws of the United States, was adopted.”

After this, will any Gentleman rise in this House and state that the laws of the United States have not been violated? Is it possible to carry evidence further? I have shown you the American construction of the law, and I certainly hold that the American Courts and Government were better entitled to construe their own municipal law than any foreign Government. I should like to know how we should deal with the American Minister who was in this country, doing certain acts contrary to our construction of the law, judicial and otherwise, and should bring forward some ingenious view taken on the other side of the Atlantic with respect to that construction in order to justify his acts? But the case does not stand upon the opinion of your own American lawyer; it stands upon Mr. Lumley's declaration on the part of the British Government, that it was a breach of the law to promise to pay these travelling expenses, combined with Mr. Crampton's simultaneous declaration that at that very period, at Halifax, he agreed to a plan for paying hard cash to persons then in the United States to enable them to find their way to Halifax and enlist. That is what I call an intentional breach of the American neutrality laws. It is unnecessary to go through the various cases; I

am sorry to say they are too many. My right hon. Friend (Mr. M. Gibson) has mentioned the case of Mr. Smolenski and the contract with Mr. Howe. There is no answer to that case except this—that Mr. Howe was not diplomatically employed by the British Government in the United States. There were, in fact, no means of getting hold of this gentleman—as one of the newspapers said of him, he was too slippery. But there is one case to which I shall refer for a few moments—I mean the case of Consul Mathews. The Attorney General yesterday seemed to suppose that this was a question where the evidence was all on one side: that on the one side we had the testimony of Hertz and Stroebel, and on the other the assurances of Mr. Crampton and the three consuls. That is one reason why I congratulate the Attorney General on his felicitous and all but total ignorance of what the Blue-books contain, for it is impossible he can have read the Blue-books and imagine that that is the whole issue raised. Now, I throw over Hertz and Stroebel altogether, and am only sorry that that mass of affidavits from one person and another, swearing to all sorts of things, should have been produced as public documents,—those affidavits being the most worthless trash ever printed in this world. I do more than reject the testimony of Hertz and Stroebel. I do not attend to the allegations of the American Government; I look solely to the evidence afforded by our own officers and our own agents. I will not remark on the dove-like innocence of the Government in conferring commissions in the Queen's service upon gentlemen of this not very doubtful character. But, treating as you please the evidence of Hertz and Stroebel, is it true that the charges are denied by Mr. Crampton and the three consuls? With regard to these three consuls, I may observe that the evidence is not equally full as to all. I have read a most manly letter written by Mr. Barclay, and, looking to the character of the allegations made against that gentleman, whether as regards the bark *Mauvy*, or as respects recruiting, I think it is clear that Mr. Barclay was free from all complicity. I should also give entire credence to the assertions of Consul Mathew, but those assertions prove the very worst part of the case. The Attorney General says, there has been no breach of the municipal law of America. I am clear, then, that his studies must have stopped short of the

Mr. Gladstone

thirty-fourth page of the Blue-book, or he would have found there evidence which, to my mind, is conclusive on this case. In the first place, I think there is no doubt that Hertz was engaged in breaking the law. In the second place, there is no doubt that Howe was the recruiting agent in connection with Hertz, and if Howe was found supplying Hertz with money it must be presumed that Howe was cognizant of the use which Hertz was about to make of it. That principle, at least, would apply to such a case occurring in this country. I have heard the Attorney General speak most ably in this House with respect to a charge of bribery at an election. If the name of Howe had been Frail, and it had been proved that Frail had handed money to Hertz for certain purposes, the Attorney General would not, I think, have had much difficulty in identifying Frail with those purposes. But between this Howe and Mr. Hertz comes in a third person, and that third person is Consul Mathew. He says, in the thirty-fourth page, that Hertz's confession was a tissue of falsehoods, and he was determined to know nothing about Hertz or anything of his proceedings. Well, that is the kind of answer we sometimes receive in committee-rooms in this House when inconvenient questions are put to witnesses about acts done at elections and money misapplied there; in that case they tell us they know nothing of the use to which that money was applied. Consul Mathew says—"At his (Hertz's) earnest request I transmitted a sealed letter to Mr. Howe, and handed him a reply, containing, I believe, money." Well, that is very cautious on the part of Consul Mathew, when we remember that his belief was not formed without good and sufficient grounds, for this reason—that he took a receipt for the money—"for which," he says, "Hertz gave a receipt, made out to Mr. Howe, and inclosed by me to him." Mr. Mathew was always very judicious; the receipt was not made out to him; Hertz swears wrongfully that the receipt was made out to Consul Mathew; but it was made out to Howe; Mr. Mathew handed money from Howe to Hertz; he took a receipt from Hertz and sent it back to Howe.

"On a second occasion," he says, "I declined to give him the money, though merely the channel of transfer; and the amount was sent to the proprietor of an hotel, from whose bookkeeper he received it."

These are not chance or casual expressions, for much further on in the book Consul Mathew travels over the same ground. He twice handed money from Howe to Hertz; he sent the money by a circuitous channel; and there is no doubt he sent it in that way in order that it might be the more difficult to trace. Can there be a doubt as to the character of that act? Is there any lawyer who will say that in a Committee of this House Consul Mathew would not have been held to be implicated in the proceedings of Howe, or that the American Government were not right in the view they took upon this point? Then, shall I be told that this was the proceeding of Consul Mathew—that the British Government had nothing to do with it? Now, Consul Mathew, upon the whole, behaved with considerable prudence and propriety, for, although he had done these acts, yet, at any rate, he was determined that the responsibility should not rest with him, and therefore, he took very good care to inform Mr. Crampton. Mr. Crampton, at page 35, acknowledges the receipt from Consul Mathew of the letter to which I have just been referring, and says—

“I have in the meantime forwarded a copy of your despatch to Her Majesty's Government, and I have satisfaction in assuring you that I can see nothing in any of your proceedings in regard to this matter which appear to me to be incorrect, or derogatory to your office.”

I apprehend, therefore, that Mr. Crampton is pretty clearly responsible for the whole of Mr. Mathew's proceedings. But does the responsibility stop there? Mr. Crampton again, with perfect propriety, sent home to Lord Clarendon Mr. Mathew's letter, together with his own letter of approval, and on the 2nd of November Lord Clarendon acknowledges the receipt of that communication in the following terms:—

“I have received your despatch of the 15th ult. and its enclosures, respecting the proceedings which have been taken in the United States' District Court at Philadelphia, in the case of Henry Hertz, who has been pronounced guilty of having violated the neutrality laws by enlisting recruits for the British army; and I have to state to you that I approve the answer which you returned to Mr. Consul Mathew's communications to you upon this subject.”

Consul Mathew thus identifies himself with Mr. Crampton. Mr. Crampton identifies himself with Lord Clarendon, and Lord Clarendon we can only regard as the organ of the British Government. What is the explanation of these facts? There are plenty more, but I will not weary the

House with going through them, for the length of these discussions even now bewilders one, and it is necessary to throw overboard much matter. The acts which I have detailed were contrary to the municipal law of America, not only as construed by the executive Government, by the Courts, by the Attorney General of America, but as construed by the confidential adviser of Mr. Crampton, as construed on the 13th of May by the British Mission at Washington itself. Here, however, we are traversed by the opinion of Judge Kane. In September, Judge Kane delivered a judgment, in which he stated distinctly that the payment of passage money, the giving an inducement in money or money's worth to people to enlist in a foreign service, was a breach of the American law; but it is said, “Oh, that was in September; look at his opinion in May! In September the American Government had entered into a controversy with the British Government, in May it was supposed that they were merely persecuting a few wretched unsupported individuals.” It is thus coolly insinuated that Judge Kane prostituted the judicial conscience, and gave, in September, a contrary opinion as to the construction of a law to that which he had given in May, in order to serve a political purpose. I hope that all Members of this House will show some respect for the feelings of the Americans. There is nothing of which the Americans are more justly proud, nothing in which they associate themselves more closely with the great country from which they have sprung than the character of their judicature, and the character of their laws and of their courts is established in the world. How should we look upon a charge against one of our own eminent Judges, first, of having given two opposite constructions of a law within a few months, the second being a false construction, in order to please a Government of the day? But the charge rests upon a very sandy foundation; there is no evidence of any real contrariety in Judge Kane's opinions. The allegation of the British Government is, that in May, Judge Kane said it was not contrary to the American law to pay the passage of a person going to enlist abroad; but while the opinion of September is authentically reported in the official reports of the proceedings of the Court, the opinion of May is a paragraph out of a newspaper, a para-

graph which grossly misquotes the American law, by asserting that it is an offence in an American citizen to go beyond the boundaries of the United States with intent to enlist. Of course an abridgment, a mere synopsis of what is said, does not contain those details and explanations without which it is impossible to give judicial force and meaning to the words of a magistrate. But, after all, there is nothing in Judge Kane's opinion, assuming the paragraph to be correct. He says:—"I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port comes within the Act." That is his bare and naked proposition; but you insert in it other words—you say that because the payment of the passage of a man does not in itself constitute an offence, *ergo*, the payment of the passage of a man by the British Government does not constitute an offence. The two cases are very different. Suppose my right hon. Friend near me and I reside in the United States; he is rich and I am poor; I tell him that my feelings are with the old country in the war in which she is engaged, and that I will go to Halifax and enter her service if he will assist me. I do not apprehend that my right hon. Friend would be guilty of an offence if he complied with my request. Would not that be a totally different case from the payment of money by the British Government to its agents for the purpose of inducing men to go; That is not all. Judge Kane's opinion was given at the end of May, but what were you doing at the beginning of May, in April, in March? Then you had the construction put upon the law by your own lawyer, yet you fall back for your justification upon an unauthenticated paragraph in an American newspaper coming long after the acts with which you are charged had been committed. Such is the celebrated case of Judge Kane's opinion! In the beginning of March your own lawyer told you the meaning of the American law; why did you not act upon it? Why did you, long after it had been communicated to you, and long before Judge Kane opened his mouth, give men free passages and hard cash, and offer them other inducements to enlist! The two chief points urged in defence of the Government are the apology and the abandonment. I have already spoken of the apology—now where is the abandonment? This is one of the most mysterious

Mr. Gladstone

and singular parts of a case which contains much that is singular and mysterious. The hon. Member for Montrose (Mr. Baxter) said the mistake was no sooner discovered by the Government than it was corrected: and last year a question was put by the vigilance of the hon. and learned Member for Sheffield (Mr. Roebuck), to which the noble Lord at the head of the Government gave an answer that was very satisfactory to the country. The noble Lord said that, not only had recruiting been abandoned in the United States, but that even our depôt at Halifax had been abandoned—that the exercise of an unquestioned right had been foregone rather than the risk should be run of having the slightest misunderstanding with the American Government. I am astonished to see the evidence as to this point; it absolutely demands a full, detailed, and careful explanation. On the 22nd of June, Lord Clarendon addresses a letter to Mr. Crampton, which may be construed as an order for the abandonment of the recruiting scheme. The noble Lord states that the abandonment takes place by the desire of the Minister for War, and that similar letters will be addressed to the Governors of Nova Scotia and Canada. If letters containing those orders had been so sent the proceedings would have been altogether discontinued; the subsequent correspondence assumes that they were discontinued, and consequently when the American Government at a much later period complained of their continuance they were taunted with the fact that even before they had had time to make a complaint—namely, on the 22nd of June, the scheme had been abandoned. Was it or was it not abandoned? Now, I am confident that the letter of the 22nd of June was intended to be sent; but some unfortunate mishap appears to have befallen it; we do not know the course it took, and no explanation respecting it is given. A careful consideration of the dates of the alleged abandonment is important, because the Americans have been condemned in this country as highly unreasonable on account of having complained of acts which had been put an end to long before those complaints were made. That is a most important statement, if true, but a most extraordinary figment if not true, and a grievous wrong to the American Government. I am convinced that there was no intentional misstatement made with regard to the time at which the abandonment of the recruiting system by her Majesty's

Government took place; but at the same time let us see at what time the abandonment really did take place: and to arrive at that we must consider the statements of Mr. Crampton and Sir Gaspard le Marchant as to when they first became cognisant of the wishes of the Government in that respect. Mr. Crampton states that he first became aware of the desire of the British Government to abandon the scheme of recruiting on the 2nd of August. Sir Gaspard le Marchant, whose position was of still more importance, because Halifax was the great centre of operation, states that it was on the 17th of August that he first received an intimation that he was to cease his proceedings, and even then he did not receive the intimation from the Colonial Secretary at home, but through Mr. Crampton. Her Majesty's Government found out, therefore, that during this period these proceedings were going on and were being complained of, and yet to those complaints they retorted that they had abandoned the scheme of recruiting long ago, and Lord Clarendon, in a somewhat contemptuous tone, stated that recruiting had long ceased, at the same time expressing the opinion that the American Government had not appreciated as they ought to have done the conduct of Her Majesty's Ministers in abandoning those proceedings. He stated that the abandonment of recruiting took place on the 22nd of June; but, as I have pointed out to the House, the letters ordering a discontinuance of the system reached Mr. Crampton only on the 2nd of August, and Halifax on the 17th of the same month. It appears to me, then, that we originally commenced a system of concealment towards the American Government; and not only did we do that, but we also adopted measures calculated to mislead them. It appears that we took the most trustworthy opinion as to the law of the United States, and not only acted against that opinion, but continued to do so for many months after the time at which we professed to have abandoned the course which we had commenced. After this can the House say that the American Government had no just cause for complaint? Can we refuse to admit a wrong to America, because the Government assert that no wrong whatever has been done? It appears to me to be that sort of case which scarcely admits of further argument or illustration. If it is to be made a matter of dispute that any cause of complaint has been given to

the Government of the United States, then I think that we may fold our arms in despair and say, "Even in this imperfect world some things have hitherto been held to be real, and beyond the possibility of a doubt; but henceforth nothing is certain, there is nothing upon which reliance can be placed, there is nothing which may not be made a subject for captious disputation." It is said that there is nothing in the instructions of the British Government to cause a wrong to the American Government. Now, what is the real fact? That there was not a single act with which the Government were not acquainted. Lord Clarendon, arguing with the American Government, says that anything short of the conclusion of an actual contract to enlist within the limits of the United States may be done, and innocently done. Now, that is one way of avoiding responsibility, because a contract is governed by the *lex loci*, and therefore a contract to enlist could not be concluded at all; and he then goes on to say to the agents of the Government, "You may persuade persons to enlist, you may assist them in so doing, you may pay their passage to a place where they can be enlisted," although such an opinion was contrary to the opinion of the American courts, contrary to the opinion of his own law officers, and contrary to the declaration of Mr. Lumley himself, the agents of the British Government. Well but, says the hon. Member for North Warwickshire, "The American Government has accepted the apologies which have been made." Now, Sir, I admit that such is the case, and I do not seek to detract from the force of what they have done. But a most extraordinary state of things has been brought about. The American Government acquits the British Government, but at the same time punishes Mr. Crampton and the three consuls; while the British Government maintains and acquiesces in the acts of its agents, and yet accepts with satisfaction its own acquittal. This is a simple unadorned statement, it contains no heightening epithets, and, indeed, I do not think that any epithet could heighten it. Mr. Crampton has been made a scapegoat—by whom is a question which I will not discuss—but I want to know what single act of Mr. Crampton has not been fully covered by the British Government—and whether it would not be contrary to the character and practice of this House, when there is no single action of Mr. Crampton which has not met with the approval of

the Government, to allow any distinction to be drawn between the proceedings of Mr. Crampton and those of the British Government. I admit fully the honourable conduct in this respect of those who sit upon the Treasury bench, because they have not attempted to draw any such distinction in debate; but whether they have not practically drawn that distinction is a matter open to more argument. The dismissal of Mr. Crampton was either right or wrong. Now, the hon. and learned Member for Leominster (Mr. J. G. Phillimore) says that it is the undoubted right of any State to ask for the withdrawal of any Minister accredited to it at its own pleasure, and without assigning any reason. Now, I am not, like the hon. and learned Gentleman, qualified professionally to deal with that subject; but, from referring to authorities upon the subject, I am inclined to think that some reason should be assigned, and in the present instance the American Government have admitted that principle, because they have assigned a reason. But, Sir, what an extraordinary course is that adopted by the hon. and learned Gentleman! The hon. and learned Gentleman says that the American Government had a perfect right to demand the dismissal of Mr. Crampton, and he gives that as a reason for supporting the conduct of a Ministry which, when the demand was made, refused to comply with it. That, Sir, appears to me a considerable anomaly. The American Government had either received just cause for offence or not. If it had, then it had a right to make a demand, which ought to have been complied with. If it had not, then it had no right to make the demand for the recall of Mr. Crampton, and the dismissal of that Gentleman ought not to have been accepted as it has been. And whatever happens, the Government ought not to allow matters to remain in their present doubtful and anomalous state; for to allow Mr. Dallas to remain here, and at the same time, by not replacing Mr. Crampton, to exhibit a certain amount of ill-feeling to the American Government, does not redound to the credit or honour of the country. It is true that if we send a substitute for Mr. Crampton, it is going far towards admitting that the Americans have received just cause of offence; but that they have, can any one in this House seriously doubt? It is impossible for any hon. Gentleman to read the Blue-book and question whether the law of America has been broken. I will not

Mr. Gladstone

enter into the inquiry whether the question was one which it was worth the while of the American Government to raise; that is a matter for them to judge. It might have been a more generous course not to raise it, but no one can dispute its right to raise it. We commenced by a course of concealment, and even now, so far as the vast majority of the public and even of Members of this House is concerned, the whole affair is so complicated with dates and events, which require great pains and study to extract from these papers, so long buried in the archives of the Foreign Office, that very imperfect information exists. The ultimate judgment, however, of this House and of the country is not doubtful, as may be gleaned from the character of this debate. At the commencement of the debate, several hon. Members rose to deprecate the Motion of the hon. Member for Mayo; but all carefully avoided giving any opinion on, or defending the conduct of, the Government. The hon. Gentleman opposite (Mr. Spooner) deprecated the policy of raising the present discussion, but he carefully avoided giving any opinion upon its merits. The hon. Member for Montrose carefully avoids defending the proceedings of the Government, but he says that they do not deserve the censure of this House of Commons, and, to prove his position, he has condescended to throw upon Mr. Crampton the responsibility which ought to belong to his employers. It is impossible that the result of this discussion can have any effect on the real question, whether the law of America has been broken. The evidence on that point is smashing—it is impossible to resist it—it only required to be sifted. There is no principle on which the contrary can be maintained, unless a principle which would render all construction impossible and all intercourse between nations absurd. I do not deny that it is a question which deserved discussion in this House. I do not know what may be the intentions of the hon. Gentleman who made the Motion, not being in his counsels; but he has acted on his privilege as an independent Member. The debate which has taken place will, I believe, not be altogether free from inconvenience, but I am certain that it will have this great advantage, that it will tend to the real elucidation of the facts. It is for the true, substantial, and permanent interest of the two countries that the facts should be elucidated. If the American people are made aware of the facts, they

will take care that their Government does not heedlessly carry them into a quarrel. The English people, too, when properly informed on the subject, will also exercise a similar salutary influence, and this debate is the first effort made to bring a knowledge of the facts to the mind of the English people. Hitherto, the facts have never been brought to the test of argument. They have been the property of the writers or of persons using them for purposes of their own; and they were now for the first time exposed to free discussion. I was sorry when the noble Lord at the head of the Government attempted to put a close to this debate last night, but I do not suppose that the discussion is of the most agreeable character to the Government. I grant that my noble Friend acts on a sound general rule in giving the weight of his authority against the practice of frequent adjournments of debate; but the importance of this matter is hardly to be overstated. The facts with respect to American law are too clear for sophistry itself to disguise. If it were possible to insure the real study of the Blue-book by all the Members of this House, there would be no serious difference of opinion remaining as to whether the American law had been observed or not. If persons responsible for the consequences of their opinions were prepared to take up this question, I should not hesitate to give my adhesion to an authentic expression of the sentiment of the House; but, in an abstract vote of censure, I am not prepared to participate. When the hon. Gentleman opposite said this was a party question, I could not help hoping that he would not give the weight of his character against party combinations in this House, which are associated with some of the best chapters in our history. When I look back to the period when party combinations were strong in this House—when Sir Robert Peel was on those (the Opposition) benches, and Lord John Russell on these, I think, though many mistakes and errors were committed on both sides, that, on the whole, the Government of the country was honourably and efficiently carried on. I believe that the day for this country will be a happy day when party combinations shall be restored on such a footing. But this question, instead of being a party question, is a most remarkable illustration of the disorganised state of parties; and of the consequent impotency of the House of Commons to express a practical opinion

with respect to the foreign policy of the country. Under these circumstances, the only resource left to me is the undisguised expression of the opinions, which I strongly and conscientiously (perhaps erroneously) feel after the study of these papers. I have had the privilege of expressing those opinions freely and strongly—a privilege which I would not have waived on any account when I consider the bearing of the case with respect to the American alliance, which I so highly prize; or with respect to that which I still more highly prize and more dearly love—the honour and fair fame of my country.

MR. J. G. PHILLIMORE explained. His expression with regard to Judge Kane was, that Judge Kane had—no doubt, conscientiously—changed his opinion with respect to the neutrality-laws; and that if so eminent a Judge as that had been in doubt as to the real interpretation of the law, it was excusable in an English consul.

THE SOLICITOR GENERAL said, he was conscious of the disadvantage of following so accomplished a speaker as the right hon. Gentleman who had just sat down; but he was greatly relieved by the impossibility which he felt in believing that the right hon. Gentleman was in earnest in the arguments which he had used. He was utterly unable to see in what way the right hon. Gentleman connected his arguments with the conclusion at which he had arrived. The right hon. Gentleman commenced by telling the House that he should not vote in the same lobby with the hon. Member for Mayo; but he went on to deliver a speech which, if it was sincerely felt, was completely irreconcilable with the conclusion which he had enunciated. He could not, therefore, but think that what they had just heard was a mere intellectual excitation, which, indeed, if it were to have any effect at all, must lead to an entirely different vote to that which the right hon. Gentleman said he meant to give. True, the right hon. Gentleman told the House very clearly what it was that he should have wished to see. He complained very much that the angels on the other side had feared to tread where the hon. Member for Mayo had rushed in, and he avowed that if the party on the opposite benches had not felt their obligation to their country to be greater than their views of personal interest, and if they had led this attack, he would have been in their ranks, provided they had directed it to seizing the Govern-

ment from the hands of those who now held it. But, further than that, the right hon. Gentleman had been bold enough to say that the American Government did not know their own case, and that they ought not to have arrived at the satisfactory termination of the matter that they had. After telling the House that he would dismiss altogether from consideration the evidence of Hertz and Stroebel, and the affidavits subsequently made, the right hon. Gentleman, by some mysterious and wonderful process, would make it appear that the American lawyers did not know their business—that they did not understand their own law, and that, in point of fact, there were abundant materials on which to form a conclusion which were never produced at the trial. The right hon. Gentleman's view of the present position of this question was, that the English Government were happy to acquiesce in their own acquittal, and that Mr. Crampton was the scapegoat whom they were willing to sacrifice as the price of their own exoneration; but he was surprised to find that the right hon. Gentleman, who had evidently studied these papers with the greatest care, should expect the House of Commons to adopt an opinion entirely at variance with that which the American Government had expressed, and had placed on record in Mr. Marcy's despatch of the 27th of May. Surely, the American Government knew their own case better and were better able to say what ought to satisfy them than the right hon. Gentleman, and they in Mr. Marcy's despatch had stated, that they were abundantly satisfied with the explanations which they had received from the British Government, and that they were perfectly convinced that there never was any intention on the part of the British Government to offend either against the municipal law or against what they were fond of calling "the Sovereign rights of the United States." The real position of the matter was simply this—and it was, no doubt, perfectly well known to the acute mind of the right hon. Gentleman. The American Government, in effect, say in this despatch:—

"You (the British Government) have exonerated yourselves, but your agents have acted indiscreetly—they have been led into the commission of acts which we perfectly see were altogether foreign to your instructions, and you are therefore bound to recall them."

To this the British Government replied, by asking for the evidence on which the

The Solicitor General

American Government had arrived at this conclusion. To what evidence did the American Government point? Why, to that very evidence which the right hon. Gentleman has himself admitted to be altogether unworthy of belief. The British Government said, in reply, that they could not accept such testimony in the face of the declarations of our Minister and of our consuls as conclusive proof of their indiscretion. Mr. Marcy did not complain of our not adopting the American view of the matter; on the contrary, he allowed, in the fairest manner, that there might be a difference of opinion as to the correct conclusion to be drawn from the evidence produced, with reference to the complicity of Mr. Crampton and the consuls; but he maintained that his Government were bound to accept the conclusion drawn by their own courts of justice, and that, consequently, as we would not withdraw Mr. Crampton, they were compelled to dismiss him. How could that possibly be represented as an intentional insult to this country? Nothing was more common in life than that from the same facts, different conclusions should be drawn. Nothing could be more natural and reasonable, therefore, than the position in which the matter at present stood. The American Government said, they were perfectly satisfied with the conduct of our Government; but that they differed from us as to the bearing and value of certain evidence affecting our agents, and they, not being bound to attach so much moral weight to their declarations as we did, had determined to act upon their own conclusions and to dismiss them. That was the simple state in which the matter now stood. The right hon. Gentleman, however, maintained that the American Government ought not to have been so easily satisfied, that they ought to have formed an entirely different conclusion. This, he submitted, was not the view which this country ought to take of the matter. It was exactly one of those things which had been wisely deprecated by the hon. Member for North Warwickshire (Mr. Spooner). The adoption of this view of the matter in the House of Commons would produce ten times as much mischief as any argument, any representation, which could be found in the despatches of Mr. Marcy or in the disquisitions of Mr. Caleb Cushing. Now, before examining the arguments of the right hon. Gentleman, and in order to fix the data on which this question ought to be argued, it was necessary to ascertain

first of all, what the law of the case was. He had observed in the American despatches, and in the arguments addressed to the House, a great deal of looseness and want of precision in the representations of the law upon this subject. At one time the whole complaint in the American papers was, that there had been an invasion of the municipal law of the United States. ["Hear, hear!"] At another time, as the hon. Member who cheered had no doubt seen, they altogether abandoned that position, and rested their case more particularly and more anxiously upon what they called an invasion of their rights of sovereignty. Then there was a third view of the matter put forth, especially by American writers—that the offence committed by this country consisted not in a direct invasion of the municipal law, nor in any breach of the international law, but in an attempt to evade, and by so evading, to break the municipal law. It was requisite that these matters should be well understood. In the observations which he was about to make, he should particularly refer to an opinion of Mr. Cushing, which had been put forward as a sort of manifesto of all that jurisprudence could supply upon the subject, and which some person had been at the expense of printing and extensively circulating, no doubt with a view to this discussion. In this document the argument was based not so much upon the municipal law of the United States as upon an exposition of international law. Upon an examination in the original language of the citations from the writings of jurists made by the Attorney General of the United States, it would be found that their result was, that international law went only to the extent of forbidding any nation actually to enrol or enlist soldiers in the territory of another. ["Hear!"] Actually to enlist or enrol. The hon. Member who cheered would probably think, for a moment, that he might understand the full meaning of those words. The offence, therefore, prohibited by the international law was the actual enrolment or enlistment of soldiers—What Wolfius, who was one of the authorities referred to, termed the *inscriptio militiæ*. That was the full limit of the international law applicable to this case. The American Attorney General, in page 11 of this great pamphlet, referred especially to a treatise of Mr. Wheaton on international law, a translation by Mr. Laurence, and the admirable commentaries of Mr. Chancellor Kent. Mr. Wheaton,

in speaking of the time when the municipal law, first adopted in 1790, and re-enacted in 1818, was introduced into America, cited the authority both of Wolfius and Vattel, in order to show that the levying of troops was an exclusive prerogative of sovereignty which no foreign Power could lawfully exercise, within the territory of another State, without its express permission. That was the only principle which was furnished by the international law in reference to this subject. The municipal law of the United States went much further; for it not only enforced this principle of the international law, but also prohibited any person from hiring or engaging any citizen of the United States within the territories of those States to go to a foreign country to be there enrolled or enlisted in the service of a foreign Power. It was necessary to observe, that under the municipal law it was requisite that the offence should be committed within the territory of the United States. With regard to the third point of the argument, that of the evasion of the municipal law of the United States, it was necessary to remember that the principle of the law of the United States was, that an American citizen might, with perfect liberty, expatriate himself. There was in the American law no such principle as that which prevailed in the law of England, and was embodied in the Act against enlisting in the service of foreign Powers, passed in the year 1819. The Americans had admitted the possibility of persons being naturalised in their country with great facility, and they had a corresponding principle that their citizens might expatriate themselves, and put on a different citizenship, except only to the extent to which they were absolutely forbidden by their laws. That principle was very well expressed by Mr. Marcy in a despatch which would be found in page 43 of the supplemental papers. Mr. Marcy wrote to M. Molina, the Minister of Costa Rica:—

"The right of expatriation is not, I believe, withheld from the citizens of any free Government, or from residents under its jurisdiction.
* * * The liberty to go where hopes of better fortune may entice them belongs to free men, and no free Government withholds it."

Therefore, in considering the argument on which a great deal of stress had been laid—that the British Government were exposed to censure because their proceedings were deliberately intended to enable parties to evade the law of the United States

—it must be remembered that there was no principle embodied in the law beyond the letter of its enactment. The law was in restraint of natural liberty, and the principle therefore was natural liberty, except so far as it was expressly and positively restrained. You could not violate the principle of such a law unless you violated its letter. It must be construed strictly; it could not by construction be extended beyond the letter of the enactment. It was idle to speak of a breach of international law where there was no breach of the municipal law of the United States, because the municipal law went beyond the international. If there were no breach of the municipal law, *à multo fortiori* there could be no breach of international law, or of the rights of sovereignty or national privileges of America. The whole of that argument was, if he might say so, very respectfully, most idle, for their rights of sovereignty were nothing in the world more than the power of preventing the enrolling of soldiers within their territory. These rights of sovereignty were embodied in their own municipal law, and consequently the question was reduced to whether we had violated the letter of that law. That law, let it be remembered, must be construed strictly, and not in an enlarged and indefinite extent. It must be taken according to the letter, according to the exact restraint which it put upon what was otherwise the natural right and liberty of the citizens of the United States. With this introduction he would approach the arguments which had been urged with so much force and so much ingenuity by the right hon. Gentleman (Mr. Gladstone), who began with a reference to the document published by Mr. Angus M'Donald. Had the right hon. Gentleman understood the bearing of that document, he would have abstained from the remarks and the arguments which he had founded upon it. He had said that Mr. Crampton not only practised concealment towards the American Government, but was also guilty of a species of false suggestion, because he went to the American Government, referred to this document, and produced a letter, which the right hon. Gentleman seemed to suppose was written for that very purpose, in which he stated that he had prohibited its publication. The right hon. Gentleman would be so good as to bear in mind that the manifesto was published in the United States—that it professed to be issued on the authority, in the name, and with the voice of

The Solicitor General

the British Government, and that, holding out an offer on behalf of that Government to every individual who might be willing to accept the terms of the proposal, it formed the foundation for a contract with all who were prepared to comply with the specified conditions. If the handbill bearing the signature of "Angus M'Donald" had been published with the sanction and authority of Mr. Crampton, that gentleman would indeed have been obnoxious to the censure sought to be cast upon him, for the document would have amounted to a proposal to certain individuals then being in the United States to enter the service of a foreign Power. There would then have been a clear hiring and retaining within the United States of persons who were willing to go abroad for the purpose of being enlisted. Nothing could be more precise or intelligible than the proposals set forth in Angus M'Donald's placard. They comprised a bounty of £6 or 30 dollars, "together with the pay of 8 dollars a month, rations, good clothing, and warm quarters." But it was, above all things, important to bear in mind that this manifesto, so far from being sanctioned, was expressly repudiated by Mr. Crampton. [Sir F. THESIGER: The Bill stated what had been actually done.] The hon. and learned Gentleman was wrong in the construction which he put upon the handbill, for it clearly stated that "the British Government offer," not that it had offered. That the Bill did not refer to a past transaction was, moreover, clear from the concluding passage:—

"It is hoped that those effective men who are now suffering and in distress will avail themselves of this rare opportunity of bettering their condition before it is too late."

Upon the receipt of the information that such a handbill was in existence, Mr. Crampton wrote the following letter to Consul Barclay:—

"Washington, March 22, 1855.

"Sir—I have received your letter of the 21st instant, inclosing a printed handbill, signed Angus M'Donald, and informing me that the said M'Donald states to you that he has issued it by the authority of Her Majesty's Government. I have to state to you that Angus M'Donald has no authority from Her Majesty's Government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same with intent to be enlisted in Her Majesty's service. This would constitute an infraction of the Neutrality Laws of the United States (Act of Congress, 1818, s. 2); and Her Majesty's Government, however desirous they may be to obtain recruits for the British army, are still more anxious that the laws of a

State with which Her Majesty is at peace should be respected."

It was clear from this extract that Mr. Crampton put the same construction on the handbill for which he (the Solicitor General) was contending, and that, perceiving that it might be taken to constitute an infraction of the neutrality laws of the United States, he, so far from de-luding the American Government, or at-tempting, as had been insinuated, to throw dust in their eyes, at once denounced and repudiated it. It had, indeed, been darkly hinted against him that though he dis-avowed this particular document, he had acted in the spirit of it, and had agents actively employed throughout the Union in obtaining recruits, and offering proposals similar to those which it contained. But there was not the slightest foundation for any such statement. Except in the tainted testimony of Hertz and Stroebel—witnesses whom the right hon. Gentleman himself admitted to be utterly unworthy of credit—there was not a particle of evidence throughout these proceedings to show that Mr. Crampton had done, or had given to any human being authority to do, anything at all approaching to what was proposed to be done by Angus M'Donald. Dismissing, then, their testimony, the matter rested without any foundation, and that point of the right hon. Gentleman's argument fell to the ground. With respect to the payments made by Consul Mathew to Hertz in the name of Mr. Howe, it had suited the purpose of the right hon. Gentleman (Mr. Gladstone) to call in question the accuracy of the newspaper report which represented Judge Kane as having expressed an opinion that those payments did not involve an infringement of the municipal laws of the United States; he said it was a mere newspaper report, and was totally without foundation. He (the Solicitor General) accepted without reserve the doctrine that we should not require the American Judges to bend to our interpretation of the law. He concurred in the eulogiums pronounced upon those learned persons, and admitted that he had no fault to find with the judgment delivered in this particular case by Judge Kane; but he certainly did think it a little hard, that while the right hon. Gentleman had impugned the accuracy of the report at-tributing a certain opinion to the Judge in question it had never occurred to him to inform the House that the American At-torney General had himself quoted and

relied on that opinion, and that the state-ment of the Attorney General coincided exactly with the Report to which the right hon. Gentleman had alluded. Writing to Mr. Van Dyke, on the 12th of September, 1855, Mr. Caleb Cushing alluded to Judge Kane's judgment in these terms—

"This Government has, of course, addressed to that of Great Britain such demands of public redress and satisfaction in the premises as the national honour requires. But the Government of Great Britain, with extraordinary inattention to the grave aspect of its acts, namely, the fla-grant violation of our sovereign rights involv-ed in them, has supposed it a sufficient justifi-cation of what it has done to reply that it gave instructions to its agents so to proceed as not to infringe our municipal laws; and it quotes the re-mark of Judge Kane in support of the idea that it has succeeded in this purpose. It may be so. Judge Kane is an upright and intelligent Judge, and will pronounce the law as it is, without fear or favour."

That upright and intelligent Judge, pro-nouncing the law with such conscientious accuracy, had given it as his opinion that "the payment of the passage of a man who desired to enlist in a foreign port did not come within the Act of 1818, com-monly called the Neutrality Law." If this were so, what became of the whole fabric of argument attempted to be raised on the allegation that money had been paid for travelling expenses by Mr. Cramp-ton? Setting aside the evidence of Hertz and Stroebel, who, on the admission of the right hon. Gentleman himself, were totally unworthy of credit, there was not the faint-est pretext for anything that Mr. Crampton, or any agent acting in the name of the British Government, had paid one farthing for the purpose of hiring or retaining any person to enlist in the service of England. The next point taken by the right hon. Gentleman was, that Mr. Crampton had concealed from the Minister of the United States the means of employment he had provided for the persons whom he desired to hire with the view to enlistment. But did Mr. Marcy make that complaint? No. It was left entirely to the ingenuity of the right hon. Gentleman to suggest that of which Mr. Marcy never dreamt. He would venture to trouble the House with the statements of Mr. Marcy himself, which would be found in the last papers laid upon the table. In his last despatch Mr. Marcy, speaking of Mr. Crampton's repre-sentation of what took place on the 22nd of March, and citing a passage in Lord Clarendon's letter of the 30th of April, said—

"I repeat now, with entire consciousness of its accuracy, what I stated in my letter of the 28th of December last, that at that interview on the 22nd of March—the only one I ever had with Mr. Crampton, as he admits, in which the recruitment business was alluded to—he (Mr. Crampton) had satisfied me that his Government had no connection with it, and was in no way responsible for what was doing in the United States to raise recruits for the British army. But I am quite certain, that on no occasion has he intimated to me that the British Government, or any of its officers, was, or had been, in any way concerned in sending agents into the United States to recruit therein, or to use any inducements for that purpose. Nor did he ever notify to me that he was taking, or intended to take, any part in furthering such proceedings. Such a communication, timely made, would probably have arrested the mischief at its commencement. If he had then apprised me of the system of recruiting which had at that time been already arranged and put into operation within the United States by British agents, and under his superintending direction, he would have been promptly notified, in the most positive terms, that such acts were contrary to the municipal law, incompatible with the neutral policy of the country, a violation of its national sovereignty, and especially exceptionable in the person of the representative of any foreign Government."

Here they came to the introduction into the language employed upon this matter of the word "recruiting," a word used by Mr. Marcy throughout the correspondence in the most general sense, but which was not to be found in the American law. The complaint of Mr. Marcy was, that Mr. Crampton never represented to him that agents had been sent into the United States by the British Government to obtain recruits. But this was begging the very question in dispute. If the word "recruiting" was taken to mean enlisting, hiring, or engaging, where was the evidence that such a thing had taken place? There was not a tittle of proof, save the testimony which the right hon. Gentleman admitted to be unworthy of credit. It was impossible to peruse Mr. Marcy's letter without observing that he took for granted the very point in controversy, and assumed that there had been concealment on Mr. Crampton's part. Having now gone over the principal topics adverted to in the eloquent address of the right hon. Gentleman, the House would perhaps permit him to recall to its recollection the actual issue before it. The House was called upon to pronounce that Her Majesty's Ministers should have been satisfied with the means adopted by the American Government to try the facts of this case. The House was already acquainted with the nature of the evidence adduced

The Solicitor General

before the court of law; but he hoped that he would be excused for asking their earnest attention to the manner in which the American jury who heard the case was sought to be influenced. The real issue to be determined was this:—Ought our Government to have been content with the judicial investigation that took place in the United States, and with the decision in which it resulted? In Mr. Crampton's last despatch an account was given of the way in which the persons composing the grand jury were got together, nominally to find a Bill against Mr. Hertz, but, in reality to find an indictment against our Minister. Hon. Gentlemen had complained that newspaper reports of the trial were relied upon; but the truth was, that we had no other evidence of the proceedings before the Court except that furnished by the American journals. He held in his hand a pamphlet containing a republication of the shorthand report of the trial taken specially for *The Pennsylvania* newspaper. The impartiality of this report might be judged of from the fact that all the inflammatory harangues of Mr. Van Dyke, the District Attorney of the United States, were given to the letter, whereas the speeches of the counsel for the defence were almost suppressed. The following was the language addressed to the jury by the District Attorney, acting under the immediate direction of Mr. Cushing—

"I have said that the war in the Crimea was conducted by the British, French, and other nations, as allies, against the single Power of Russia. I have said that the consequences of that war had been disastrous to the besieging parties, and that the signs of the times indicated a still more humiliating fate. The English army having met the most serious losses, the Government of Great Britain, in direct violation of her duty towards us, and with a design of misleading those residents of the United States who did not fully comprehend the nature of our laws, devised a plan for the purpose of partially regaining the position and standing which, in the absence of the proper exercise of the advanced military experience of the age, they had lost. A plan for this purpose was adopted and attempted to be carried out by his Excellency John F. Crampton, the Minister Plenipotentiary of Her Majesty, assisted by several agents of the British Government, within the territory and jurisdiction of the United States, and I think you will be satisfied Mr. Crampton thus acted with the knowledge and approbation of his Government."

In a subsequent part of the same address after a very animated appeal to the jury altogether dropping the name of Hertz and levelling the accusation against Mr. Crampton, and alleging that our Minister

and his associate representatives "gave directions to Captain Stroebel to repair immediately to all the recruiting offices in the United States and order the persons engaged in those offices to adopt the system which they had prepared for the guidance of the recruiting agents;" the District Attorney exclaimed, "Honourable and generous Great Britain! and oh, most faithful British Ministers!" Referring to the final speech of the District Attorney, on summing up the evidence, the pamphlet stated that Mr. Van Dyke—

"Closed his remarks by a severe commentary upon the baseness and perfidy of the persons engaged as the chief actors in this flagrant attempt to violate and evade the laws and treaty obligations of the United States, and expressed the hope that the result of this case would vindicate the action of the Government in their determination to maintain our national integrity with every nation of the globe, whether it is or is not in accordance with the sinister purposes of Great Britain. By forcing this indictment thus against this defendant the President of the United States has struck as near the Throne of Her Majesty as he is enabled to do in the shape of a criminal prosecution. The extended privileges and peculiar protection given to a foreign Minister prevents, so far as he is concerned, the application of the criminal code of the country, although such foreign Minister may be proved guilty of acts which, if committed by a private individual, would make him a felon."

Alluding to Mr. Crampton, the Hon. Joseph Howe, and Sir Gaspard le Marchant, the speaker continued—

"You, gentlemen, may rest assured that in due time they will be called upon by our able and faithful officers at Washington to make proper atonement for the gross insult which they have offered to our laws and our people."

These were some of the statements made at a trial the record of which the American Government alleged compelled them to conclude that the acts complained of were done with the knowledge and at the instigation of Mr. Crampton. If language such as that had been used against America by the Attorney General of this country in conducting a prosecution on behalf of our Government, would not offence have been justly taken by the United States? Would anybody have regarded an investigation thus conducted as a satisfactory and impartial trial, the result of which could be accepted as a dispassionate judicial decision? Such, assuredly, would not have been the opinion entertained of it. And yet, how stood the question? The inquiry was simply this:—Ought Her Majesty's Ministers, under such circumstances, at once to have consented to recall their Mi-

nister, at the suggestion of the American Government, upon the proofs appealed to by that Government, and in opposition to the assurances of Mr. Crampton, and of all the official personages with whom he acted? He thought the House of Commons would be of opinion that, under the circumstances, Her Majesty's Government had acted rightly. That was the simple question that was at issue between the House and the American Government. The American Government were bound to accept, and they did accept, the assurance—nay, the right hon. Gentleman who had preceded him was one of the first who would claim for that assurance the fullest and most ample credit. That right hon. Gentleman must recollect that all that had been done had been nothing more than what might be called the natural consequences of those proceedings which were commenced while the right hon. Gentleman was a Member of the Government of Lord Aberdeen. The Foreign Enlistment Act must be taken as the law of this country, and one of the bases of those proceedings. We were also bound to accept this, that it was the result of the statutes for the enlistment of soldiers. Was there a place in Europe where we could go in order to enlist soldiers with so much propriety as to the United States? And why? The States contained very many of the subjects of Her Majesty, and they had become a place of refuge to numbers who owed no allegiance to the Government of the United States beyond that due from temporary residents. If, therefore, the Foreign Enlistment Act were part of the law of the land, and it came to be part of the obligation of the Ministry to execute it—and the right hon. Gentleman would not say that it should be suffered to remain a dead letter—he (the Solicitor General) demanded to what part of the globe England could resort with greater reason to carry it into effect than the United States? Not only were we likely to find a greater number of natural-born subjects ready to respond to our invitation in the United States than elsewhere, but it was a country where the municipal law with regard to the allegiance of its citizens was lighter and more easily relaxed than in any other country; and, therefore, in resorting to it we were resorting to a place where the Foreign Enlistment Act could be carried into effect with the least injury to the municipal law. He

trusted, then, that the House would feel that the British Government were under no obligation to recall Mr. Crampton on the representations of the American Government. The American representations would be found to be faulty in their basis; and he hoped the House would agree with him that he had been enabled to show that the arguments of the right hon. Gentleman, built on the part of the correspondence which he had selected for reading, were simply a false conclusion—a conclusion not warranted by any justifiable view or interpretation of the municipal law of the United States, or of the exigencies of the international law.

SIR JOHN PAKINGTON: I leave it to the House and the country to decide between the arguments of the hon. and learned Gentleman who has just sat down and those of my right hon. Friend the Member for the University of Oxford. The powerful speech of my right hon. Friend has, in my opinion, completely exhausted this subject, and at this late hour I would gladly abstain from trespassing upon the time of the House, were it not that, having used some strong expressions with reference to this subject on a former evening, it may fairly be expected that I should now vindicate that language. I am also desirous of stating frankly my opinion—an opinion in which I am glad to find myself supported by the right hon. Member for Oxford University—that the time has arrived when the House of Commons may fairly and properly address itself to the consideration of this painful subject. Indeed, I conceive that if we were now to shrink from the discussion of this question we should be wanting in duty to our country. The papers before us are now completed, and they tell a most discreditable tale, made worse by the last which have been produced; and I can well understand that Her Majesty's Ministers may desire to avoid a discussion, and hon. Gentlemen on both sides of the House may well have thought that a reasonable request on the part of the Government. I will go further, and will make this admission—I am willing to admit that hon. Members who are prepared to disregard the plausible request made by the Government incur thereby considerable responsibility. But the crisis is one of no ordinary importance. The circumstances of the case are peculiar as well as important, and I think we are bound to ask ourselves—will the discussion of

The Solicitor General

this question at the present moment be prejudicial to the public interests? My firm persuasion is that, instead of being injurious to the public interests, the discussion of this subject now can do nothing but good. My belief is that the settlement of our delicate relations with the United States will be promoted if it be known to the public and to the American citizens that there is a party—an independent party—in this House (and I care little whether, as regards the division in the lobby, I stand in a large or small majority) which will consider the papers before us dispassionately, and raise its protest against the rashness and imprudence by which the peaceful relations between the two countries have been imperilled. Entertaining these views, I feel bound to tender my thanks to the hon. Member for Mayo for the decision and vigour with which he has disregarded the appeals that have been made to him, and has decided to bring the matter before the House of Commons, and to have a discussion of this question upon its merits. The only point, with regard to the Motion of the hon. Member for Mayo, on which I differ from the right hon. Member for Oxford University, is as to the course which my right hon. Friend intends to adopt. Whether or no the hon. Member for Mayo intends to press his Motion to a division I cannot tell. [*Cheers from the Ministerial benches.*] Hon. Gentlemen opposite cheer; I really know not why. [*Renewed cheering.*] I have no influence with the hon. Member for Mayo. There is no party connection between that hon. Gentleman and myself. But if he takes a division upon this subject, I, for one, shall undoubtedly go with him into the lobby. I was taken to task the other night for having used strong expressions upon this subject. Those expressions have been repeated during the present debate. I find that my opinion has been fully borne out, and I beg to state that I do not recede from one word I uttered on the occasion to which I refer. The right hon. Secretary for the Home Department asked last night, what was the real object of this Motion, which he said he did not understand. I think possibly the eyes of the right hon. Baronet may have been opened by the speech of the right hon. Member for the University of Oxford to-night; but if that is not the case, I have no hesitation in stating what I consider to be the charges against Her Majesty's Government upon

this subject. My opinion is, that no dispassionate man can rise from a careful perusal of the papers upon the table without feeling that the conduct of the Government has been such as to compromise its character, to endanger the peace of the world, and to bring us to the verge of a war with America. The result of this conduct has been that Her Majesty's Government have offered humiliating apologies to the United States, and have been subjected to the indignity of having their Ambassador dismissed;—a most painful state of affairs, to which I am convinced Her Majesty's Government would not have submitted if they had not been conscious that their conduct with regard to the question of enlistment had been indefensible. How is it that the Government have been involved in this dilemma? I maintain that it has been by the most unwise and imprudent disregard of the most obvious requirements both of general international law and of the municipal law of the United States. The Solicitor General has spoken a good deal upon that subject to-night, and I confess I was rather amused at that part of his speech in which he expressed a great desire that any one who wished to understand the question should read the authors upon international law in the original languages. The right hon. Member for Oxford University dwelt in terms of lamentation upon the small portion of mankind, not excluding this House, who were disposed to study Blue-books; but I am inclined to think that the number of persons who will dive into international law in the original languages is still more limited. I was also rather amused at the extreme dexterity and ingenuity with which the Attorney General endeavoured last night to draw us away to the only part of the American law on the subject which has nothing whatever to do with the point at issue. The Home Secretary and the Solicitor General have followed in the same attempt. They have all endeavoured to fix our attention upon that part of the American law under which, no doubt, American citizens are perfectly free to enlist into a foreign service, or to do anything else they please when out of the United States; but that point of law has nothing to do with the question relative to the conduct of Her Majesty's Government; and I think they would have dealt more ingenuously with the House if they had dwelt upon that part of the American

law which happily does not require a reference to the "original" language, for nothing could be more plain to the understanding of the most unlearned reader than the municipal law of the United States. Under that law, according to Mr. Crampton himself, it is clearly an offence to hire or detain any person to go beyond the limits or jurisdiction of the United States with intent to be enlisted; and, in my opinion, it has been by an entire disregard of that law that Her Majesty's Government have involved us in the painful difficulty in which we now find ourselves placed. I will here advert to the first despatch of Lord Clarendon, addressed to Mr. Crampton, and in which the latter was desired to communicate with Sir Gaspard le Marchant and the British consuls in the United States on the subject of the recruitment. Before that despatch there was one sent out by the right hon. Gentleman the Member for Wilts (Mr. S. Herbert), who was at that time in office, the colleague of the right hon. Member for Oxford University; and here I cannot help expressing my regret that the Government of that day did not abstain altogether from any communication with Mr. Crampton. The Government made a serious mistake in entertaining the idea of drawing recruits from America for our army; but, entertaining it, there was only one mode in which it could be carried out with any degree of prudence, and that was by limiting their efforts to our own colonial possessions. If our Government had opened recruiting offices at Halifax and Quebec—where we know that loyal colonists were anxious to enter into our service—colonists whose assistance was rejected by the Minister of the Crown—and had abstained from any communication either with Mr. Crampton or with the British consuls in the United States, I think they might have added valuable recruits to the army; and if citizens of the United States had chosen voluntarily to engage in our service, they could have been enlisted without furnishing ground of complaint to the American Government. Again, passing on to the next stage of the proceedings, I cannot understand how our Government, after receiving the despatch of Mr. Crampton, dated March 26, giving an account of his first interview with Mr. Marcy, and showing clearly what the feeling of the American Cabinet was, could entertain the idea of persevering for another day in their unwise and imprudent policy of attempting to raise recruits in the United States. They

ought to have abandoned their intentions immediately. And here, Sir, I must refer to the conduct of Lord Clarendon in this matter, though, I can assure the House and the Government, without the slightest degree of personal disrespect. If I were to speak of Lord Clarendon in terms of personal disrespect, sure I am that such language would find no response either in this House or in the country; but we must not be induced by feelings of a private nature to compliment away the interests of England, or to abstain from expressing the opinion which, as public men, we entertain upon a question of national importance. It was only the other evening that we heard from the noble Lord the Member for the City of London a rhetorical flourish with respect to the conduct of Lord Clarendon, in which the noble Lord expressed his wish that the same Statesman, whose name was connected with the pacification of the East, should also have the honour of putting an end to the differences with the West. That was a very amusing rhetorical sentence, but I am sorry to say that I cannot subscribe to the justice of the compliment to Lord Clarendon. In the East, I find the name of Lord Clarendon attached to a Resolution which no Minister of England ought to have signed. Last night we were told by the noble Viscount at the head of the Government that the fortifications of Ismail are to be dismantled,—an object with respect to which Lord Clarendon sustained a signal defeat at Paris. Here, again, in the West, the name which is most conspicuous in these unfortunate transactions with the United States is that of Lord Clarendon. I agree with the right hon. Member for Oxford University, that it would be most unjust to separate Lord Clarendon from his colleagues in this matter. No doubt the whole Government is responsible for the acts of one of their body, but, nevertheless, there are certain facts and circumstances involved in these proceedings which we are inevitably driven to connect with the name of Lord Clarendon. That noble Lord, instead of taking the only prudent course which was open to him as soon as he received the first warning of the feeling of the American Government—instead of at once abandoning the idea of raising recruits in the United States, sent out a despatch dated April 12, in which no intimation whatever is conveyed to our agents in America, that they should not proceed any further in the matter. What had

Sir John Pakington

happened in the meantime? The American Government had taken alarm; the people of the United States had found out what was going on; and as soon as the papers issued by Mr. Angus M'Donald became known, Mr. Crampton sought an interview with Mr. Marcy, the result of which he communicated in a despatch to Lord Clarendon. What was the language of Mr. Marcy—

“Mr. Marcy observed that he had never doubted that no sort of countenance would be given by Her Majesty's Government to persons who should use their name in any attempt to violate the neutrality laws. He added, however, that the proceeding in question had been brought under his notice, and that orders had already been given to the District Attorney of the United States to institute legal proceedings against Angus M'Donald, or any other persons who should be found to have rendered themselves liable to the penalties of the act of Congress regarding the enlistment of citizens or residents in the United States for the service of a foreign Power.”

(*Cries of “Divide!”*) I assure the House that if they will favour me with their attention I will be as brief as possible. What followed immediately upon this? Here I touch the ground so powerfully dealt with by my right hon. Friend the Member for the University of Oxford. But I have a new charge to make, and that is that the American Government were deceived—whether intentionally or not—the American Government were deceived by Her Majesty's Ministers. On the pages of the Blue-book there appear to me to be three instances in which the American Government were misled and deceived by Mr. Crampton and the agents of the British Government. The first was in Mr. Crampton's letter to Consul Barclay on the handbill of Angus M'Donald, which was read to Mr. Marcy, and which was as follows—

“I have to state to you that Angus M'Donald has no authority from Her Majesty's Government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same with intent to be enlisted in Her Majesty's service. This would constitute an infraction of the neutrality laws of the United States (Act of Congress, 1818, s. 2); and Her Majesty's Government, however desirous they may be to obtain recruits for the British army, are still more anxious that the laws of States with which Her Majesty is at peace should be respected.”

How could the American Government draw any conclusion from this letter but that the attempt was to be abandoned? The second was in Mr. Crampton's interview with Mr. Marcy; and the third was

in that communication between Mr. Lumley and Mr. Marcy, in which Mr. Lumley read Lord Clarendon's letter, and assured Mr. Marcy that Mr. Crampton had determined not only that there should be no violation of the law of the United States, but no evasion of that law. What was the language of Mr. Marcy on hearing Lord Clarendon's letter read? Mr. Marcy was completely misled by the language of Mr. Lumley, which was to the effect that the Government had abandoned the attempt to recruit in the United States. Where was Mr. Crampton at this very moment? Why, he was at Halifax devising those means by which the law of the United States was to be evaded. Mr. Buchanan wrote to Lord Clarendon on the 6th of July, and complained of these deceptive practices. Mr. Buchanan said—

"When intimations were thrown out that British consuls in the United States were encouraging and aiding such enlistments, Mr. Crampton, Her Britannic Majesty's Minister at Washington, exhibited to the Secretary of State a copy of a letter which he had addressed to one of these consuls, disapproving the proceeding, and discountenancing it as a violation of the neutrality laws of the United States. After this very proper conduct on the part of Mr. Crampton, it was confidently believed that these attempts to raise military forces within the territory of a neutral nation, from whatever source they may have originated, would at once have been abandoned. This reasonable expectation has not been realised, and efforts to raise recruits within the United States for the British army are still prosecuted with energy, though chiefly in a somewhat different form."

Mr. Marcy, in his despatch of the 28th of December, again complains of the same fact—that the Government of the United States had been misled. The Solicitor General said to-night, that Mr. Marcy made no such complaint. I think I may say of him what my right hon. Friend (Mr. Gladstone) said of the Attorney General—for I very much suspect that he also has not read these papers. Mr. Marcy, in his despatch of the 28th of December, regrets that the instructions of the British Government to their agents were not made known to the American Government, and complains of the deception thus practised upon him. This despatch was answered by Lord Clarendon in a manner that gave considerable offence to the American Government. Mr. Marcy had expressed in strong but dignified terms, of which no complaint could be made, the feelings of the American Government on finding that officers of the British Govern-

ment were involved in these transactions; and this despatch was followed by one from Lord Clarendon which, I regret, was not marked by the tone which usually characterises the noble Lord's despatches. Lord Clarendon complained of conspiracy, and used bad reasoning and vituperative language, in which he compares an Irish public meeting at Boston, or some other part of America, with the act of the British Government deliberately adopted and carried out by their agents. Lord Clarendon, in that despatch, fully justifies the conduct of the British officers in America. I will remind the House what the conduct of these officers was, and I will not depend either on the confession of Hertz, or the evidence of Stroebel, but mainly on the admission of the British officers themselves. I will call attention to the instruction given to Mr. Crampton, and then to the interview between Mr. Crampton and Mr. Stroebel, at Halifax, showing the connection between Mr. Crampton and Stroebel. I should like to know whether the Government are prepared to deny these two facts adduced in the trial of Hertz, that a cipher, stated to be in Mr. Crampton's handwriting, was drawn up to carry on a secret communication between Mr. Crampton and Mr. Stroebel when the latter was recruiting in America. The other fact is the allegation that when this Captain Stroebel went to the United States, he adopted the name of Smith for purposes of concealment, and that correspondence was carried on by him under the name of Smith, with a British officer, named Preston, in cipher in order to avoid detection. If this is true, what becomes of the assurances that there had been no evasion of the law of the United States? How can this be reconciled with the openness and want of concealment that are now urged by the Government? Is it true that these men were enjoined to travel as private persons in order to avoid observation? Is it true that they were hired in the American States as railway labourers, and told to go as railway labourers to Halifax? Is it true that Mr. Crampton carried on this cipher correspondence, and that the name of Smith was adopted for disguise? It is only fair to put these inquiries to the Government. If these things are true, the defence set up by the Government vanishes altogether, and I have no hesitation in saying, in the face of Parliament and the country, that, if these facts are true, I, as an English Gentleman, am entirely ashamed of

them. At this late hour I will not dwell upon that point. [*"Hear, hear!" from the Ministerial side.*] I can easily understand the unwillingness of Gentlemen opposite to listen to these things. I think that extremely natural; but I do not understand how they should think, as it seems they do, that they only sit here to interrupt those who perform their duty. I will now touch for a moment—and it shall only be for a moment—upon the question of the conduct of the consuls, because, here again, the right hon. Gentleman the Member for the University has entirely occupied the ground. I think the consuls have been most unfairly treated. They ought never to have been involved in these transactions. I have been struck, on reading these papers, with the obvious reluctance of Mr. Crampton, Sir Gaspard Le Marchant, and every one of these gentlemen, to be so involved. It really seems that Her Majesty's Government were the only parties unconscious of the danger. Their officers would not touch the matter one bit further than they were obliged, although they had not the moral courage to do what Vattel tells us agents ought to do under such circumstances, namely, disobey the orders received from the Government at home. It is clear that Hertz received money through Mr. Mathews, who sent back the receipt to Mr. Howe; but it is said, "Hertz is a man of bad character." If he had not been a man of bad character he would never have been a party to these transactions. No honourable persons would have undertaken the duties these men discharged, and if Hertz and Stroebe had not been men of bad character they would not have been fit for the task assigned to them by Her Majesty's Government. I cannot refrain from alluding, for a moment, to those last despatches. As I said at the outset, they are most remarkable, and make the case worse than it was before. The hon. and learned Gentleman the Solicitor General rather boasted of the complete acceptance in these despatches of the apology of the British Government; but it seems to me the language of acceptance contains one of the bitterest sarcasms I ever read. [*Cries of "Divide!"*] Let me entreat the attention of the House, for the sake of this great question, if not for the sake of the Gentleman putting it before them, to the boasted acceptance of the disclaimer. What is the language of Mr. Marcy? He says—

Sir John Pakington

"The Earl of Clarendon, in behalf of Her Majesty's Government, disclaims all intention to violate the laws, compromise the neutrality, or disregard the sovereignty of the United States, by enlisting troops within their territory. The President unreservedly accepts and is fully satisfied with this disclaimer. Of course the unlawful acts in question were not authorised by the British Government, but the fact is nevertheless well established that they were done, and done in the name, and at the expense, of the British Government."

Is that an acceptance of a disclaimer? Did any one ever read a more palpable sarcasm? It is perfectly clear that the writer of that despatch felt, that in drawing the distinction which he was attempting to draw between the conduct of the Government and the conduct of Mr. Crampton, he was attempting that which was impossible. The Solicitor General has adverted to this distinction, and has said, that in his conduct Mr. Crampton was guilty of indiscretion and inadvertence. [The SOLICITOR GENERAL: I said the charge against Mr. Crampton was one of indiscretion and inadvertence.] Exactly so. I had not in the least misunderstood the hon. and learned Gentleman. He told us that the charge against Mr. Crampton by the American Government contained in this despatch was indiscretion and inadvertence. Will the House allow me to read the passage which refers to Mr. Crampton? Instead of a charge of indiscretion and inadvertence, Mr. Marcy, in his last despatch, thus wrote with regard to Mr. Crampton—

"It is not the least of the causes of complaint against Mr. Crampton that, by his acts of commission in this business, or in failing to advise his Government of the impracticability of the undertaking in which he was embarked, and the series of illegal acts which it involved, and in neglecting to observe the general orders of his Government and to stop the recruiting here the moment its illegality was pronounced by the proper legal authorities of the United States, he was recklessly endangering the harmony and peace of two great nations which, by the character of their commercial relations and by other considerations, have the strongest possible inducements to cultivate reciprocal amity."

Having read that passage, I ask the hon. and learned Gentleman whether he can call that a charge of inadvertence and indiscretion? No, Sir, the charge is of a very different nature. I do not understand how Her Majesty's Government could have consented to accept the distinction which the American Government has drawn, considering that Lord Clarendon, in the very last speech which he made in reply to Lord Elgin, declared that if the

Government consented to recall Mr. Crampton, they would be taking a part which was shabby and dishonourable. But this is the dilemma to which Her Majesty's Government has been reduced by the course they have taken. And what is their excuse? The plea they have urged is, that they have made most ample apology for any offence against the United States. The right hon. Gentleman the Member for the University of Oxford has expressed a doubt this evening whether any apology was made or not. Whether apology has been made or not, it cannot be denied that the Government have urged the fact of apology in vindication. No doubt in all cases between nations, as between individuals, the wrongdoer is right in offering apology; but, while we respect the moral feelings of the man who makes apology, we are inclined to call in question his judgment, which places him in a position in which apology is necessary. I think the representatives of England in this House and the people of this country have a right to complain that Her Majesty's Government have placed this country in such a position that we have been obliged to make humiliating apologies to the United States. Let me now advert for a moment to the particular time when this attempt was made to raise troops in America. It was made at a moment when it was the duty of any Government to have taken the greatest possible care not to add to the difficulties already existing with regard to the United States. The delicate question of Central America had been long hanging over us. It still remains to be settled. If anything made the conduct of the Government more imprudent than it otherwise would have been, it was embarking in this dangerous attempt to raise soldiers within the United States at a time when it was peculiarly important to give no just cause of offence to that country. Sir, on both sides of the Atlantic every party and every honest man must hope that no indiscretion of any Government, in either country, will lead to the terrible calamity of war between England and America. I can imagine nothing which either country could gain by such a calamity. Either might gain temporary glory, but what compensation would that be for the destruction of commerce, the interruption of social progress, the waste of blood and treasure, which must inevitably result from such a contest? Such, I think and hope, will be the feeling of many thousands on both

sides of the Atlantic. If, unhappily, the national honour or the national interests should require the institution of such a struggle, then, no doubt, the people of this country and our fellow-subjects in the American provinces would rally loyally round the Throne. But all must earnestly pray that such a day may be far distant. Upon both sides of the Atlantic there would be an outcry against the Government which should embark upon such a melancholy contest without the justification of a righteous cause.

VISCOUNT PALMERSTON: Sir, notwithstanding the doubt which the right hon. Baronet who addressed us last expressed as to whether the hon. Member who made the Motion would think it necessary to press it to a division, and notwithstanding the effort made by the hon. Gentleman who just now presented himself (Mr. John MacGregor) unfortunately for himself a little too late, I do hope the House will think it necessary to pronounce an opinion upon the Motion which has been submitted to them, and which is no less than a vote of censure upon the Government. I trust the House will feel it a duty not longer to delay pronouncing an opinion upon this question, and not allow to remain in suspense the question whether the Government which hitherto has enjoyed the confidence of the House and of the country is henceforward to rest under the censure of this important body. The hon. Member who made the Motion began by saying that he called upon the House to pronounce an opinion in a judicial capacity, and that the debate should be conducted with judicial calmness. But no sooner had the hon. Member made the exhortation than he began, and continued during the remainder of his speech, to indulge in a perfect tissue of personalities and invective—ripping up everything he could find in the treasures of his memory, putting forth all the calumnies which in former times had been uttered against my noble Friend, Lord Clarendon, and, by dwelling upon the name of my noble Friend in every alternate sentence of his speech, the hon. Member endeavoured to create an impression that there was something in these transactions to separate Lord Clarendon from his colleagues, and that the censure of this House, which he invoked, should fall upon that one Member of the Government, and not equally upon all. The tenour of that speech was as unconstitutional as, I trust, the result of the

Motion will be unsuccessful. It has been well said by those who followed the hon. Member that there is no individuality in that Member of the Government who is charged by the office he holds with the conduct of these great transactions, but that all his colleagues are equally responsible as himself. I can assure the House that the whole Government are prepared, in the fullest sense of the word, to adopt the entire responsibility for anything which Lord Clarendon has said or written upon this question. The hon. Member for Inverness-shire (Mr. Baillie) began by referring to the origin of these transactions—namely, that Act authorising the Crown to raise foreign troops for the purposes of the war. He told us how, in 1813, there were I don't know how many thousand men in arms, and that ten years after the war began there was a great increase in the force with which we began, while, one year after the late war had commenced we had not completed the number of men which had been voted by Parliament. I shall not go back to the discussion which took place upon that Bill; but the ground upon which we proposed it to Parliament, and upon which my right hon. Friend the Member for Oxford University (Mr. Gladstone) concurred, was that, in a country whose army was raised by voluntary enlistment, and not by conscription, the means of rapidly increasing the number of soldiers did not exist to such an extent as to render a recourse to other means unnecessary. That Bill having become law, it became the duty of Her Majesty's Government to carry it into effect. We heard that there were a number of persons residing in the United States, some of them British subjects, some Germans, who had removed from their own countries from various causes, who were desirous of joining the ranks of the British army and to take part in a war which they considered to be a rightful and a just war. We determined to endeavour to avail ourselves of the aid of those persons, and my right hon. Friend (Mr. Gladstone) and those who sit near him were parties to that determination. I cannot allow my right hon. Friend, who must admit that he was a party to the establishment of a recruiting system in Nova Scotia, to say that that system was not intended solely for the enlistment of British subjects resident in the British provinces, but it was intended distinctly and avowedly to enlist persons coming from the United States;

Viscount Palmerston

and I cannot allow my right hon. Friend to own himself a party to that arrangement without having been aware of the results that must flow from it. That system was determined upon; but at the same time the Government determined also that nothing should be done that was at variance with the municipal laws of the United States. A distinction has been attempted to be drawn between national law and municipal law, between the internal regulation and the sovereign rights of a nation; but that sophistry has been blown away by the speech of my hon. and learned Friend the Solicitor General, who demonstrated in the clearest manner that municipal law could not be construed beyond its enactments, and therefore it is a fallacy to say you can conform to the municipal law forbidding enlistments, and yet be violating international rights. The question is, was the municipal law of the United States violated? I maintain that it was not. Certainly, it was not violated by order of this Government—it was not violated in consequence of any instructions issued by them, or to their knowledge, by any officers acting under their instruction. It is contended that it was violated by their officers acting indiscreetly and with over zeal. Those officers deny that assertion; and according to their interpretation of the law of the United States it is manifest that they did nothing at variance with that law. Who is to interpret that law? It is said that there was a counsel who gave an opinion; but there was also a Judge who gave an opinion; and if Judge Kane knew then what the law of the United States was, then it is clear that nothing was done by our agents that was a violation of the law. It is said that Judge Kane afterwards altered his opinion; but when was that? In September. He gave his first opinion in May. Our operations ceased in July; and therefore, so far as the conduct of the officers of this Government is concerned, that was borne out by the high authority of a Judge of the United States. It is also said that, notwithstanding, proof was given to the Government of the United States that things were done which were a violation of their laws. No doubt things were done in violation of their laws, but it was by persons not authorised to act by any person commissioned by the British Government, and against them prosecutions were instituted which in some cases succeeded, in others failed. It has been said that no prosecu-

tions could be instituted against Mr. Crampton, because he was protected by his diplomatic character. That argument does not apply to the consuls. If they had, as is contended by the United States Government, violated the law, why were they not prosecuted? The right hon. Member for Manchester (Mr. Gibson) referred to the case of Mr. Curtis in Prussia; but Mr. Curtis was actually prosecuted. We thought, and still believe, that the proceedings upon that trial were not fair and just, and the same opinion seems to have existed in Prussia, for, although Mr. Curtis was condemned, the King immediately ordered his release and granted a full pardon. Why did not the American Government act in the same manner towards our consuls? Of the three consuls who have been dismissed none have been brought to trial. Proceedings against Stanley have also been discontinued by the authority of the United States' Government; and, therefore, I am warranted in saying that the accusations against Mr. Crampton and the three consuls rest upon the testimony of those witnesses who are admitted on all hands to be men of the vilest and basest character, and to be utterly unworthy of credit. Then it is said that we practised deception and concealment upon the United States' Government. Why, Sir, Mr. Crampton, in his conversation of the 27th of March, stated fully and fairly to the American Government that which they must already have known without his statement—namely, that the British Government were taking measures in Halifax to receive those persons coming from the United States who might be willing to engage in our military service. But then it is said that Mr. Crampton did not go afterwards to Mr. Marcy and tell him day by day what he was doing. Why did not Mr. Marcy send for Mr. Crampton if he were informed that proceedings were taking place on the part of British authorities which were at variance with the law of the United States? Why, if any Minister of a foreign Power in this country were supposed to be acting at variance with British law, does any man suppose that our Minister for Foreign Affairs would not send for him the very next day after receiving such information, ask him for explanations, sift the matter to the bottom, and allow no misunderstanding to exist? Is that the conduct of the American Government? No. Month after month they allow these things to go on, never send for Mr. Cramp-

ton, never tell him what it was supposed he was guilty of doing; they allow these things to accumulate in order that, when the proper time arrives, they may either take advantage of them, and act upon them, or deal with them as matters which do not deserve consideration. Then I say, Sir, there was an abstinence on the part of the United States' Government from those steps which it was their duty to take if they thought that the agents of foreign nations were violating the laws of the Union. But then when Her Majesty's Government, at a very early period, found that these proceedings were likely to produce embarrassment between the two countries, they suspended—or, rather, they definitively stopped of their own accord—these arrangements. An hon. Gentleman has criticised the dates, and has stated that these instructions were not acted upon till August. Surely, however, a question of weeks or days is immaterial in a matter of this sort, the fact being, that the British Government, when it learned that these proceedings were likely to be embarrassing, of its own accord directed that they should be suspended. Then hon. Gentlemen say there was no apology made. Why, what more full apology, what more complete reparation could one Government make to another, when they found that certain proceedings of theirs might furnish grounds of complaint, than putting an end to those proceedings? Don't tell me of verbal apologies! I say the apology of deeds was one infinitely more valuable—infinitely more satisfactory to the Government of America—a greater proof of the desire of the British Government that nothing should occur to interrupt the friendly relations between the two countries than any verbal apology that could have been offered. I say, then, Sir, there is no question about concealment, there is no question about deception, there is no question about our not having made reparation for the offence, if any offence had been committed. But, it is declared, we ought to have acknowledged that we did wrong. Why, we did not believe we had done wrong; we did not believe we had deliberately violated the laws of the Union; we neither intended this, nor do we believe, in our understanding of those laws, that they have been violated by any authorised British agent. We, however, received complaints from the United States' Government, and intimations that our agents ought to be withdrawn. In reply to that we sent detailed

statements from them, proving, as we thought and hoped, to the satisfaction of the United States' Government that their impression was erroneous, and that nothing had been done which justified the dissatisfaction they had expressed. In answer to that the United States' Government said they were satisfied with regard to the conduct of Her Majesty's Government, that all questions between the two Governments had ceased and were settled; but that, nevertheless, they still retained their opinion in respect to the British agents, and that they therefore deemed those agents unacceptable organs of communication between the two Governments. What, then, was the course which we had to pursue? We had to determine whether, in such a state of things, we should give measure for measure, retaliate upon Mr. Dallas the measure adopted with regard to Mr. Crampton, and withdraw the *exequaturs* from the American consuls in England in return for the withdrawal of their *exequaturs* from the English consuls in the States. Sir, the Government did not deem it their duty to advise Her Majesty to take those steps; and, notwithstanding what has been said in debate, I am still of opinion that that decision has met, and will continue to meet, the approval and concurrence of the country. Sir, it is indeed a curious circumstance to watch the language of hon. Gentlemen who have taken part in this debate. Both sides are vehement in their declaration of the vast importance of maintaining peace between the two countries. All abound in their assurances that that wish is at the bottom of their hearts, and is the most anxious object of their lives. And yet, here happening to be a case in which a question has arisen between two countries which, as far as the Governments are concerned, has been terminated in a manner deemed satisfactory to both, Gentlemen on the other side of the House are loud in their denunciations that the honour and dignity of England have been insulted through the affront offered to her Government. The intercourse of nations takes place between Governments, and an insult to the Government is an insult to the country. These Gentlemen, then, so anxious for peace, tell you that England has been insulted, treated with contumely, contempt, and indignity. What is the effect likely to be produced? Why, to excite in the people of England a spirit of resentment towards their neighbours and

Viscount Palmerston

kindred in the United States. Anybody who is acquainted with the character of Englishmen must know, to tell them they have been insulted, treated with contempt, exposed to indignity, will naturally exasperate them—the bulk of the nation, without, perhaps, very much investigating the foundation of such assertions, will take them upon trust, especially when they come from such high authority. They will say, “If the leaders of a great party—the country party—hold that language, we must indeed have been grossly insulted, and let us resent the insult so offered to us.” Then I say that, as far as hon. Gentlemen opposite go, they lay the foundation for animosity between the two countries. After that comes my right hon. Friend the Member for the University of Oxford, and he tells the Americans that their Government has been deluded, has been persuaded to accept an apology which they ought not to have accepted; that their laws have been violated designedly, and intentionally, by the Government of a foreign country; and that, so far from meeting that injury in the manner which becomes the Government of a great and independent nation, their Government have accepted an apology and expressed themselves satisfied, when, on the contrary, they ought to have declared themselves affronted and injured. Why, Sir, is that the way to create good feeling between the two countries? Is that the way to persuade the American people to cultivate the most friendly feelings towards this country? Sir, many Gentlemen told the hon. Member for Mayo that his Motion was calculated to injure the public service, and well did they anticipate the result. Well did they foresee, in endeavouring to dissuade him from proceeding with his Motion, the consequences likely to result from it, when on both sides of the House topics have been started, arguments have been employed, which, instead of leading to the closer union of the two nations, instead of effacing mutual animosity are calculated to excite angry passions, to enlist the feelings of the two countries in the differences which have unhappily arisen to embitter their intercourse, and render it more difficult to bring about a more amicable understanding on the points at issue. I will not at this late hour detain the House with many more observations; it is quite unnecessary to do so. The House is now called upon to determine whether there shall be passed upon the Government

a vote of censure. The hon. Member for Mayo began his speech by deprecating all quibbling evasion, as he called it—all words which might be distorted into something beyond what they really expressed. Sir, I think he might have criticised his own Motion. I think it would have been much more manly and straightforward on his part if, instead of contenting himself with a sort of evasive declaration that the Government are not entitled to the approbation of the House, he had at once come forward and expressed the feeling which was no doubt uppermost in his mind, that the Government has made itself deserving of the censure of the House. It would have been much more manly and straightforward to have moved a clear and distinct vote of censure, than to disguise disapprobation under the pretence of refusing approbation which has not been asked for. Sir, the right hon. Gentleman the Member for Oxford University says, that he shall give us the benefit of his vote, and I should be sorry indeed if anything I have said should induce him to alter his determination. I know we must not look a gift horse in the mouth; and I shall not examine the reasons of my right hon. Friend's vote. I only hope the reasons he has given will induce those hon. Members who have not yet made up their minds which way they shall vote, to go into the lobby with him. The reason he gives is that it is impossible at the present moment to form an Administration founded on a successful censure of the existing Government; a reason certainly not highly complimentary to the right hon. Gentlemen opposite. But I think many Gentlemen will be of opinion that that difficulty could easily be got over—that it could very well be solved by half an hour's private conversation between the right hon. Gentlemen who sit there (Sir J. Graham and Mr. Gladstone) and the right hon. and hon. Gentlemen opposite. I would not, therefore, accept from the House a vote founded on so great a political misconception. We stand upon what we think better and higher ground. We are of opinion—although it may be presumptuous to state it—that we have during a difficult period conducted the affairs of the country to the satisfaction of the nation, and with honour and advantage to the public interest; we believe that the confidence which this House has hitherto shown us is shared by the country at large. It is upon that ground that we are prepared to go to a

division. We ask for a continuation of the confidence of the House, not upon the ground that there may be a difficulty in finding other persons to fill our places, but because we think we have done nothing to forfeit their good opinion. Trusting to these considerations, trusting to the good opinion which the House has hitherto expressed towards us, trusting to the goodwill which we believe is felt for us by the country, and not to the argument of my right hon. Friend that no other Government can be formed, we challenge the hon. Member for Mayo to come to a division, and we feel confident that the result will be such as we think our conduct deserves.

MR. JOHN MACGREGOR rose to address the House amid considerable confusion and cries for a division. Few sentences could be heard consecutively, but the hon. Gentleman was understood to blame the Government for the course they had taken in reference to recruiting in the United States, which he thought was clearly a violation of their municipal law; and to deprecate any disturbance of the amicable relations between the two countries.

MR. BENTINCK moved the adjournment of the debate. [*Cries of "dissent."*] He thought he was perfectly justified in taking that course, not from a wish to offer any remarks of his own, although he had frequently risen without being able to catch the Speaker's eye, but to give several Gentlemen on that side of the House an opportunity to express their opinions. [*"Oh!"*] Certainly, after the determination which some hon. Members had shown not to give a patient hearing to the right hon. Baronet near him (Sir J. Parkington) it was hardly to be expected that they would listen to less influential speakers. If the noble Lord at the head of the Government was sincere in desiring that publicity should be given to this question, any opposition to an adjournment upon his part would at least present an odd appearance.

MR. G. H. MOORE: I hope that the House will allow me to take this opportunity—not to reply, because that I have no right to do, and, if I had, there is nothing for me to reply to—but to answer what, to use the words of the noble Lord at the head of the Government, I may call the calumnious imputations cast upon me by himself and by the Attorney General.

VISCOUNT PALMERSTON: I used the word "calumnious" in reference to statements made by others which the hon. Member made use of, and not to anything which fell from himself.

MR. G. H. MOORE: The noble Lord stated that I adduced calumnious stories against Lord Clarendon, and the Attorney General said that I was actuated by personal ill-feeling towards that noble Lord. Now, Sir, to that imputation I can only say that it is entirely unjust and untrue. I do not believe that any one who has been within the scope of the personal influence of that noble Lord could bear any ill-feeling towards him, and I think that no one is so much indebted as that noble Earl to personal good-feeling — not so much, perhaps, on account of successes achieved as on account of blunders escaped from. The noble Lord says that I have raked up old and calumnious stories from the life of Lord Clarendon, and one of his colleagues has termed them obscure. Now, I have yet to learn that I am not justified in citing the public acts of a public man; and as to the incidents to which I have referred being obscure, they were discussed for two nights in this House, and I certainly am surprised to hear the noble Lord apply the word "calumnious" to that which he knows to be true.

VISCOUNT PALMERSTON: I used the word "calumnious" as referring to those calumnies which were disseminated against my noble Friend Lord Clarendon, with regard to the trial to which the hon. Gentleman has referred.

MR. G. H. MOORE: I have stated nothing which is not strictly true.

Motion made and Question, "That the debate be now adjourned" put and *negatived*.

Question put, "That the words proposed to be left out stand part of the Question."

The House *divided*: Mr. Hayter, one of the Tellers for the Ayes, acquainted Mr. Speaker, that three Members had not voted; whereupon Mr. Speaker having desired the Members to come to the Table, Sir Benjamin Hall, Mr. Jackson, and Mr. Traill, came to the Table accordingly, and stated that they were in the House when the Question was put, and having declared themselves with the Ayes, Mr. Speaker desired their names to be added to the Ayes:—Whereupon the Tellers announced the numbers: Ayes 274; Noes 80: Majority 194.

List of the AYES.

Acton, J.	Duncan, Visct.
Adair, H. E.	Duncan, G.
Adair, Col.	Duncombe, hon. Col.
Agnew, Sir A.	Dundas, F.
Anderson, Sir J.	Dunlop, A. M.
Antrobus, E.	Du Pre, C. G.
Atherton, W.	East, Sir J. B.
Bailey, C.	Ellice, E.
Baines, rt. hon. M. T.	Esmonde, J.
Ball, J.	Ewart, W.
Baring, H. B.	Ewart, J. C.
Baring, rt. hn. Sir F. T.	Farrer, J.
Bass, M. T.	Feilden, M. J.
Baxter, W. E.	Fenwick, H.
Beamish, F. B.	Fergus, J.
Berkeley, Sir M.	Ferguson, Col.
Berkeley, hon. H. F.	Ferguson, Sir R.
Bethell, Sir R.	Ferguson, J.
Biddulph, R. M.	FitzGerald, Sir J.
Biggs, J.	FitzGerald, rt. hn. J. D.
Biggs, W.	FitzRoy, rt. hon. H.
Black, A.	Fitzwilliam, hn. C. W. W.
Blakemore, T. W. B.	Fitzwilliam, hon. G. W.
Bland, L. H.	Foley, J. H. H.
Blandford, Marquess of	Forster, C.
Bonham-Carter, J.	Forster, J.
Bouverie, rt. hn. E. P.	Fortescue, C. S.
Bramston, T. W.	Fox, W. J.
Brand, hn. H.	Freestun, Col.
Brocklehurst, J.	French, Col.
Brotherton, J.	Gallwey, Sir W. P.
Brown, W.	Gladstone, rt. hon. W.
Bruce, Lord E.	Glyn, G. C.
Buckley, Gen.	Goddard, A. L.
Byng, hon. G. H. C.	Goderich, Visct.
Cardwell, rt. hon. E.	Gordon, hon. A.
Carnac, Sir J. R.	Gower, hon. F. L.
Castlerosse, Visct.	Graham, rt. hon. Sir J.
Caulfield, Col. J. M.	Greene, T.
Cavendish, hon. C. C.	Gregson, S.
Cavendish, hon. G.	Grenfell, C. W.
Challis, Mr. Ald.	Grey, rt. hon. Sir G.
Chambers, M.	Grey, R. W.
Chaplin, W. J.	Grosvenor, Lord R.
Cheetham, J.	Grosvenor, Earl
Cholmondeley, Lord H.	Gurney, J. H.
Clay, Sir W.	Hall, rt. hon. Sir B.
Clifford, H. M.	Hankey, T.
Cobbett, J. M.	Hanmer, Sir J.
Cobbold, J. C.	Harcourt, G. G.
Cockburn, Sir A. J. E.	Harcourt, Col.
Coles, H. B.	Hardinge, hon. C. S.
Collier, R. P.	Hastie, Alex.
Colville, C. R.	Hastie, Archibald
Cowan, C.	Headlam, T. E.
Cowper, rt. hon. W. F.	Heard, J. I.
Craufurd, E. H. J.	Heathcote, hon. G. H.
Crossley, F.	Herbert, H. A.
Currie, R.	Heywood, J.
Davie, Sir H. R. F.	Higgins, Col. O.
Deasy, R.	Hindley, C.
Deedes, W.	Hogg, Sir J. W.
Denison, E.	Holland, E.
Denison, J. E.	Horsman, rt. hon. E.
Dering, Sir E.	Howard, hon. C. W. G.
De Vere, S. E.	Hughes, W. B.
Dillwyn, L. L.	Hughes, H. G.
Drumlanrig, Visct.	Hutchins, E. J.
Drummond, H.	Hutt, W.
Duke, Sir J.	Ingham, R.

Ingram, H.	Price, W. P.
Jackson, W.	Pritchard, J.
Johnstone, J.	Ricardo, O.
Keating, H. S.	Ricardo, S.
Kendall, N.	Rice, E. R.
Kershaw, J.	Richardson, J. J.
King, hon. P. J. L.	Ridley, G.
Kingscote, R. N. F.	Robartes, T. J. A.
Kinnaird, hon. A. F.	Rolt, P.
Kirk, W.	Russell, F. C. H.
Labouchere, rt. hon. H.	Russell, F. W.
Lee, W.	Sandon, Visct.
Lemon, Sir C.	Sawle, C. B. G.
Lewis, rt. hon. Sir G. C.	Scholefield, W.
Lindsay, W. S.	Scobell, Capt.
Littleton, hon. E. R.	Scrope, G. P.
Lowe, rt. hon. R.	Seymour, H. D.
Luce, T.	Seymour, W. D.
McCann, J.	Shafto, R. D.
MacGregor, James	Shee, W.
MacGregor, John	Shelburne, Earl of
MacTaggart, Sir J.	Shelley, Sir J. V.
Magan, W. H.	Sheridan, R. B.
Marjoribanks, D. C.	Smith, rt. hon. R. V.
Martin, P. W.	Smith, A.
Massey, W. N.	Smollett, A.
Matheson, Sir J.	Somerville, rt. hn. Sir W.
Milligan, R.	Spooner, R.
Mills, T.	Stafford, Marquess of
Michell, W.	Stanhope, J. B.
Moffatt, G.	Stirling, W.
Monck, Visct.	Strickland, Sir G.
Moncreiff, rt. hon. J.	Strutt, rt. hon. E.
Monseil, rt. hon. W.	Sturt, H. G.
Montgomery, Sir G.	Talbot, C. R. M.
Morris, D.	Tancred, H. W.
Mostyn, hn. T. E. M. L.	Thompson, G.
Mowatt, F.	Thornely, T.
Mowbray, J. R.	Thornhill, W. P.
Mullins, J. R.	Tite, W.
Muntz, G. F.	Tomline, G.
Napier, Sir C.	Traill, G.
Newark, Visct.	Uxbridge, Earl of
Nisbet, R. P.	Villiers, rt. hon. C. P.
North, F.	Vivian, H. H.
Oakes, J. H. P.	Waddington, H. S.
O'Brien, Sir T.	Warner, E.
O'Brien, J.	Watkins, Col. L.
O'Connell, Capt. D.	Watson, W. H.
Oliveira, B.	Welby, Sir G. E.
Osborne, R.	Wells, W.
Oswalston, Lord	Whatman, J.
Owen, Sir J.	Whitbread, S.
Paget, Lord A.	Wickham, H. W.
Palmerston, Visct.	Wilkinson, W. A.
Patten, Col. W.	Willcox, B. M'G.
Pechell, Sir G. B.	Williams, T. P.
Peel, Sir R.	Williams, W.
Peel, F.	Wilson, J.
Pellatt, A.	Winnington, Sir T. E.
Perry, Sir T. E.	Wood, rt. hon. Sir C.
Phillimore, J. G.	Wortley, rt. hon. J. S.
Pigott, F.	Wrightson, W. B.
Pilkington, J.	Wynne, W. W. E.
Pinney, Col.	Wyvill, M.
Ponsonby, hon. A. G. J.	
Portal, M.	
Portman, hon. W. H. B.	
Price, Sir R.	

List of the NOES.

Adderley, C. B.	Baldock, E. H.
Archdall, Capt. M.	Baring, T.

Baring, hon. F.	Lindsay, hon. Col.
Bellw, T. A.	Lisburne, Earl of
Bignold, Sir S.	Lockhart, W.
Blackburn, P.	Lovaine, Lord
Bond, J. W. M'G.	Lushington, C. M.
Bowyer, G.	Macartney, G.
Bramley-Moore, J.	MacEvoy, E.
Bruce, Major C.	Maguire, J. F.
Buck, Col.	Malins, R.
Butt, G. M.	Meagher, T.
Cecil, Lord R.	Miall, E.
Cocks, T. S.	Murrrough, J. P.
Cole, hon. H. A.	Naas, Lord
Conolly, T.	Napier, rt. hon. J.
Devereux, J. T.	Newdegate, C. N.
Dunne, Col.	Pakington, rt. hn. Sir J.
Evelyn, W. J.	Parker, R. T.
Fellowes, E.	Peacock, G. M. W.
Fitzgerald, W. R. S.	Roebuck, J. A.
Floyer, J.	Seymer, H. K.
Follett, B. S.	Smijth, Sir W.
Forester, rt. hon. Col.	Smith, J. B.
Gibson, rt. hon. T. M.	Somerset, Col.
Gladstone, Capt.	Stafford, A.
Graham, Lord M. W.	Swift, R.
Greene, J.	Tempest, Lord A. V.
Grogan, E.	Thesiger, Sir F.
Hadfield, G.	Tollemache, J.
Hamilton Lord C.	Verner, Sir W.
Hamilton, G. A.	Vernon, L. V.
Hamilton, rt. hn. R. C. N.	Waddington, D.
Hanbury, hon. C. S. B.	Walsh, Sir J. B.
Handcock, hon. Capt. H.	Warren, S.
Holford, R. S.	Wyndham, H.
Hume, W. F.	Wynne, rt. hon. J.
Jolliffe, Sir W. G. H.	Yorke, hon. E. T.
Jolliffe, H. H.	
Kennedy, T.	TELLERS.
Knox, hon. W. S.	Moore, H. G.
Liddell, hon. H. G.	Baillie, H. J.

Main Question again proposed.
 Debate arising.
 Debate *adjourned* till *To-morrow*.
 The House adjourned at a quarter after
 Two o'clock.

HOUSE OF COMMONS,

Wednesday, July 2, 1856.

MINUTES.] PUBLIC BILLS.—1° Commons Inclosure (No. 2).
 2° Judgments, Execution, &c.
 3° Distillation from Rice; Oxford College Estates.

JUDGMENTS EXECUTION, &c., BILL — ADJOURNED DEBATE (SECOND NIGHT.)

Order read, for resuming Adjourned Debate on Question [22nd May], "That the Bill be now read a second time."

Question again proposed.

Debate *resumed*.

Question put, and *agreed to*.

Bill read 2°.

Motion made, and Question proposed,
 "That the Bill be committed."

COLONEL DUNNE said, he would re-

commend the withdrawal of the Bill at the present advanced period of the Session.

MR. NAPIER said, he must complain that the Bill would not work, especially in mercantile cases, where it would disturb all cases in bankruptcy and insolvency, and lead to collusive proceedings between tradesmen in England and Ireland. There would be no longer any safeguard against preferential payment by creditors. He should be better satisfied if the right hon. and learned Gentleman the Attorney General for Ireland would give his assurance that the measure would work, on which he entertained great doubt.

MR. J. D. FITZGERALD said, he could not concur in the right hon. and learned Gentleman's opinion of the Bill, for he had well considered the objections urged against the measure both in the Select Committee and in that House, and his opinion was, that its principle was sound. The principle was, that if judgment was recovered in one country, it might be executed in the other. At present a judgment being given in Ireland, execution could not be enforced in England, and *vice versa*. That was remedied by the present Bill. There were undoubtedly some safeguards which would be necessary to prevent the abuse of the Bill, but those could be introduced in Committee.

MR. I. BUTT said, he should be glad to see the principle adopted if it could be done safely. When the Bill first came down from the Select Committee it was looked upon with great suspicion by the Government. The Bill placed the judgment in the hands of one Court, and the execution of it in another, a practice which would inevitably lead to great confusion. How was the question to be properly tried? It would be a much wiser plan if the judgment issued by any one Court could be executed by that Court in any part of the United Kingdom. If any measure was passed, it should be a much more extensive one than the present. The process of the Bill was not a sufficient improvement on the present system to be set against the inconvenience it would occasion, and the frauds which it would give rise to. If those powers were given to the Court, the power of changing the venue should be given at the same time. He should therefore move that the Bill be committed that day three months.

Amendment proposed, at the end of the Question, to add the words "for this day three months."

Colonel Dunne

Question proposed, "That those words be there added."

THE LORD ADVOCATE said, he had been a Member of the Select Committee on the Bill, and was aware of the apprehension with which it was viewed. But he had never felt any of the fears which had been expressed even by his right hon. and learned friend the Attorney General for Ireland. He thought hon. Members were too timid in respect of new Bills. All laws would be evaded and abused. The principle of the Bill was so good, that abstractedly it would be well if the decision of Courts in all countries could be executed everywhere. That, however, was impossible; but in the three kingdoms, where the Courts were governed by the same principles, it was absurd to have three distinct rules applicable in each of them. As far as regarded Scotland, he was perfectly satisfied with the Bill, and had no fears that its provisions would be abused in that country. The opponents of the measure seemed to be apprehensive against frauds, which could, he was certain, be prevented by the most ordinary care on the part of the Court. He trusted that they would allow the Bill to go to Committee, that such safeguards as might be necessary, if any were necessary, might be adopted.

MR. NAPIER said, that to make the Bill safe they must adopt stringent regulations, which, he apprehended, would create great difficulty. He could not see the way to carry the measure out so as to remedy existing inconveniences. All approved of the principle; but there was no lawyer there who would undertake to work it so as to avoid the perplexities which it involved. If the right hon. and learned Attorney General for Ireland would undertake to reconsider the Bill, he should be satisfied; otherwise he must vote for the Motion of his hon. and learned Friend.

MR. BAINES said, he believed that the principle was not only a valuable one, but might be carried safely into effect. The law officers, both in England and Ireland, approved of the Bill; the Law Society of Ireland, which had once opposed it, now consented to it. Under these circumstances, therefore, he trusted they would let the Bill go to Committee, believing that the difficulties would vanish as they were practically approached.

MR. G. BUTT said, that after giving much consideration to the Bill his opinion was decidedly in favour of its principle.

That principle was, that there should be a reciprocal power of enforcing in one part of the United Kingdom the judgments obtained in any other part, taking care that the proceedings adopted for that purpose should not give facilities for undue preferences or for the commission of fraud; for, undoubtedly, facility of enforcing judgment was a very great boon. What the House, however, had to do was to take care that the machinery was well guarded; and it seemed to him that the machinery of this amended Bill would substantially accomplish the object and principle which they were all desirous of carrying out. Under those circumstances he hoped the Bill would be committed, and rendered as safe and useful a measure as possible.

MR. VANCE said, he had communicated with several of the mercantile classes in Ireland, and that they were unanimously opposed both to the principle and the details of the measure. They represented that Ireland, as the poorer country, was unfortunately the larger debtor, and that the practical effect of the Bill would be this—that the English creditor, instead of taking proceedings against traders in Ireland in the courts of law of that country, would take those proceedings in England, where the debtor had not the ordinary means of defence at his command, and thus inflict great hardship and injustice upon him. In his (Mr. Vance's) opinion, the law, as it at present stood, gave sufficient remedies to the creditor against the debtor.

MR. HADFIELD said, he could not understand the difficulties urged against the Bill. It was high time that the distinction in legal process between the three countries should be abolished. He sincerely wished that hon. Members would take more pains to get over difficulties and less to find them out. He highly approved of the Bill, considering it a most useful one.

MR. CRAUFURD said, he had sought assistance from all quarters for the last two years, in order to put the Bill in a perfect state. He had already made several alterations in the measure which he thought would protect it against abuse; and he had given notice of a further Amendment for that purpose. If there was any difficulty in Ireland it rested with the Irish merchants to take such precautions as would obviate it.

MR. DEASY said, he thought that as much delay would arise under the present measure as under the old practice.

MR. I. BUTT said, he would not press his Amendment, notwithstanding he believed that the measure could not be made safe, but being willing that they should try their hands at it.

Amendment, by leave, *withdrawn*.

Bill committed for Wednesday next.

BLEACHING, &c. WORKS (No. 2) BILL— ADJOURNED DEBATE.

Order read, for resuming Adjourned Debate on Amendment proposed to be made to Question [5th June], "That the Bill be now read a second time;" and which Amendment was to leave out the word "now," and at the end of the Question to add the words "upon this day six months."

Question again proposed, "That the word 'now' stand part of the Question."

Debate resumed.

MR. BAXTER said, he should be the last person to stand in the way of any enactment which might be considered requisite for the protection of the working classes against sordid capitalists, or for the improvement of their social state. Rightly or wrongly, Parliament appeared to have abandoned the principle of non-interference between masters and their servants, and he was ready to admit that there might be practices in some parts of the country connected with the bleaching and dyeing trade which required the interference of the Legislature, but further he could not go. He deprecated proceeding with a Bill of this importance at such a late period of the Session, as it would inevitably have to go before a Select Committee, and Parliament would probably adjourn in three or four weeks. He did not like the mode in which the evidence was got up in the case. The hon. and learned Member for Youghal (Mr. I. Butt) had said on a former occasion that the masters in Scotland were almost unanimous in favour of the Bill; but the masters on the east coast had generally petitioned against it, and he (Mr. Baxter) had read a letter from a gentleman who was otherwise favourable to factory legislation, deprecating its passing. Moreover, a large section of the operatives in Scotland had petitioned against it. The Bill proposed to deal with all works for bleaching and dyeing in a similar manner; whereas, the circumstances and practice were as different as possible in various parts of the country—at least in Scotland. On the east coast of Scotland the occupation was

the most healthy in which the operative could be engaged. The number of hours in which the operatives worked were not more than the Bill proposed. Linen bleaching depended greatly on the state of the weather, part of the processes being carried on in the open air. A long frost or a long drought, or heavy rains, rendered the water turbid, and stopped the operations; therefore, if work was to be stopped at a particular hour, great loss would accrue to all parties. Mr. Tremenhære, partial as his testimony was, bore witness to that fact. The conclusion from these considerations was that, unless the hon. and learned Member (Mr. I. Butt) was to undertake the control of the elements and the action of chemical bodies, he would withdraw the Bill, a Bill which, if it was carried, would inflict very great injury on an important branch of trade. The workpeople would not thank the hon. and learned Member for several provisions in his Bill, especially that which changed the hour of commencing work in the morning from seven o'clock, at which it now stood, to six o'clock. A careful perusal of the Bill caused him (Mr. Baxter) to conclude that its effect would be to substitute male for female labour, and to drive into towns the great bulk of the cottier population. Under those circumstances, and looking at the impossibility of giving the Bill that careful consideration the subject demanded, he hoped it would not be persisted in on this occasion.

COLONEL DUNNE said, that the hon. Member who had just sat down had made the most unwarrantable assertions with respect to the Report of Mr. Tremenhære. What right had he to assume that Mr. Tremenhære had been careless, or actuated by partial motives in drawing up that Report? The real question was, whether they should do anything for the operative classes in the country? No one could depend on the masters to supply the place of legislation. The Legislature had already interfered in the same way with regard to cotton, why should they be precluded from interfering in the case of linen? If the masters objected to the Bill, why did they not propose some measure themselves? If the Bill was drawn up by those not conversant with the trade, why did not they, if they were sincere in their wishes to protect the operatives, make a proposition for that purpose?

MR. DUNCAN said, that if the people in the bleaching works were in a bad posi-

Mr. Baxter

tion, he should be one of the first to assist them in obtaining a change. These operations were chiefly carried on out of doors, and when in-door operations were necessary, they were always carried on in a well ventilated atmosphere. In the county he represented the people worked in summer from six to six, and as the season advanced, from seven to seven, with time for meals, and in no case did they work more than sixty hours a week. They were well housed, well clothed, and there was, in his opinion, no occasion for legislation on the matter. He should oppose the Bill in every way, as being uncalled for.

MR. MURROUGH said, he hoped the House would allow the Bill to go into Committee. The hon. Gentleman who had spoken in opposition to the Bill had carefully abstained from informing the House as to what was going on in the interior of the bleaching works. He would remind the hon. Member for Montrose (Mr. Baxter) that in his works he was bleaching, not linen, but the blood of boys and girls.

SIR JAMES GRAHAM, Sir, having, some time ago, bestowed considerable attention on this subject, perhaps the House will allow me to offer a few remarks upon the Bill now under consideration. I do not see much use, I must confess, in persisting in it at this late period of the Session, for, after what has already passed, and the attention which has been given to the question, it would be very unfortunate if the House were to come to a hasty decision upon it. The question was very fully considered in 1845, when it was introduced with all the advantage and zeal of Lord Shaftesbury, then Lord Ashley, and it was at that time my duty officially to give to it the most anxious consideration. I thought that there was a difference to be drawn between factories and bleaching works. I argued the matter at great length with Lord Shaftesbury, and he yielded to the reasons which I brought forward, and the Legislature did draw a distinction between bleaching works and factories. The Bill we are now discussing does not altogether correspond with the Report of Mr. Tremenhære, but, even if it did, there is on the face of that Report an error so grievous and so palpable that I question whether it should recommend itself to us on that account. In matters of this sort it must be admitted, I think, that the minimum of interference is the maximum of wisdom. Bills of this kind are

drawn in two ways—either in ignorance of the particular trade affected, when injuries not contemplated are very often inflicted on the trade, or else craftily by persons interested in the trade, who have some peculiar way of doing business which they seek to favour by the aid of the Legislature, in order to obtain advantages over their competitors. I therefore view all measures of this kind with extreme jealousy. I fully admit the duty which lies upon us of protecting the health, the happiness, the comfort, and the wellbeing of the labouring classes; but if you make a mistake in this kind of legislation—if you should cramp and fetter that branch of trade to which you are directing your attention, you will in the long run inflict evils of the greatest magnitude upon those whom you wish to serve. It is admitted that the bleaching trade is exposed to the most severe competition with foreign rivals, and that it requires all the skill and energy of the British manufacturer successfully to contend against that competition. Just as in a race where two horses of exactly equal powers are to run—if you put 3lb. extra on one of them his defeat is certain, so it is with regard to this trade. Mr. Tremenhoe admits the keenness of this competition, but, while he states most distinctly that if you follow his advice the additional cost of production will be 10 per cent, and the addition to the selling price 1 per cent, he maintains that this is a very trifling matter indeed, and would have no effect. Now, Sir, that is so astounding a proposition in a matter of trade that I, for one, cannot consent blindly to follow Mr. Tremenhoe as guide. If the effect should be as he states—to add 10 per cent to the cost of production—I predict at once that by such hasty, wild, and extravagant legislation you would insure the success of our foreign rivals in this branch of trade. Then we are asked on the 2nd of July, to read this Bill a second time, though the House of Lords will not receive a Bill which has to be read a first time after the 22nd of July; I, therefore, consider that it would be the height of rashness for this House to legislate on this subject, relying only on the Report of Mr. Tremenhoe; and it would neglect its duty if it failed to institute an inquiry of its own. We ought to have a Select Committee upon the subject, and, as it would be a delusion to appoint one this Session, I think it better that the second reading of this Bill should be postponed, on the understanding that a Select

Committee shall be appointed at the commencement of next Session to inquire into the whole subject. The peculiarities of this trade are so great that I believe it differs from the cotton, wool, flax, and indeed all other manufactures. The work, when once begun, must be continued; it is not like manufacturing by machinery where you can stop on Monday night and go to work again on Wednesday morning; when once you have begun you must finish your work, unless you wish to lose all the benefits of your labour. The demand, too, is not continuous, it occurs only about three times in the year. It would be a waste of time, however, to pursue this argument any further on the present occasion; I hope, however, that the House will not proceed with the Bill in the present Session, for I am sure that its promoters, sincerely desirous as they are to benefit the working classes, will not be advancing their own object if they persist with it at present.

MR. NEWDEGATE said, he should support the Motion for the second reading of the Bill. He held this opinion, that if we looked forward to a good understanding between all classes of this country, they must affirm this principle, that no class of persons should be permitted to sacrifice the health of families and young children in the race of competition. He held strongly that it was the duty of the State to extend the trade and manufactures of this country by all legitimate means; but he maintained at the same time that it was the duty of the State to interfere to save the lives and health of those who could not protect themselves. He did not admit the argument that because it could be pointed out that certain restrictions on the labour of young children might impede the success of trade, the Legislature had a right to deny to families the protection of the State. They might depend upon it, that nothing the Legislature had done had so promoted a good feeling in this country amongst the working classes, as in extending protection to those who could not help themselves. Upon every opportunity that presented itself he was determined to support an inquiry into the applicability of these principles; but, at the same time, he would appeal to the hon. and learned Member who had charge of the present Bill, whether it might not prove the sacrifice of a good measure if he proceeded with it at an improper time. He did not see how it was possible to give it the attention it deserved,

or to protect themselves from the charge of hasty legislation. He therefore hoped the measure might be postponed until the next Session.

SIR GEORGE GREY said, he had hoped the hon. and learned Gentleman (Mr. I. Butt) would have stated the course he intended to pursue. Representations were made to him (Sir G. Grey) at the close of last Session, and at the beginning of the present, by persons interested in the trade, that the inquiry conducted by Mr. Tremenhoe was not satisfactory, and urging that another inquiry would be necessary. The hon. and learned Gentleman who had charge of the Bill then proposed a Select Committee, but the lateness of the Session interfered with its appointment. He thought that to go on with the discussion now would be a waste of time, and he trusted the hon. and learned Gentleman would take advantage of the advice which had been tendered to him, and withdraw his Bill for the present. He thought it would be more advantageous to take the advice of the right hon. Baronet the Member for Carlisle (Sir J. Graham) and ask for a Committee next Session. That was certainly the course he ought to take, if he wished his measure to succeed.

MR. I. BUTT said, he should have attached considerable importance to the appeal which had just been made to him by the right hon. Baronet the Home Secretary, if he did not recollect that about the same time last Session a similar appeal was made to him from the same quarter, and in reference to the very same Bill. [Sir G. GREY: Yes, but you did not follow my advice.] The Bill was founded upon the fullest inquiry, and had been most carefully prepared, but from time to time its progress had been obstructed by one party or another. It was then proposed to him that the Bill should be referred to a Select Committee, and thinking that would get rid of the opposition, he assented to the proposition; but the opposition had still been kept up, and it certainly was not he who was responsible for the Bill coming on at that late period of the Session. Now, how stood the case? Why, in 1854, a Bill, nearly identical with the one under consideration, passed the House of Lords and came down to that House, when the Government proposed that it should be withdrawn and the subject inquired into during the autumn by a Royal Commission. That course was taken, the Bill was withdrawn, a Royal Commission

Mr. Newdegate

was appointed, and last year he brought in a Bill founded upon the Report of that Commission, which Bill was only rejected by a very small majority. Early in the present Session he re-introduced the Bill with some Amendments, and now, at nearly the close of the Session, having been put off day after day, he was for the second time requested to give way in favour of inquiry. The accuracy of the Report made by the Royal Commissioner was impugned by the Government who appointed him; and now it was said the proper tribunal for inquiry was a Select Committee of that House. It should, however, be remembered that in the meanwhile the sufferings of the poor people whom the Bill was intended to relieve were going on; but still he was entirely in the hands of the House, and it was for the House to decide whether he should go on with the Bill forthwith, or withdraw it with a view to the appointment of a Select Committee. He entirely dissented from the opinion taken by the right hon. Baronet (Sir J. Graham), that the House ought to pause before it consented to the measure, as they might be doing mischief, instead of good; previous legislation in the factory direction having, it was believed, produced more mischief than benefit. He had the highest respect for the opinions of the right hon. Baronet, but he could not help recollecting that the right hon. Baronet had been at times completely wrong in some of his strongest predictions as to results of particular Acts of Parliament; and he believed that the right hon. Baronet in the present instance would be found to be in error. He did not believe that the manufacturing superiority of this country depended upon the excessive hours of labour extorted from women and young children, in an atmosphere heated to 130 degrees; and he entirely differed from those calculations which asserted a large increased cost on the manufactured article if some such measure as the Bill before the House was passed. If the House did not consent to read the Bill a second time it would be received as an intimation by the working classes that the suggestion of the right hon. Baronet (Sir J. Graham) was to be acted upon, and that no further legislation was to take place on this or similar questions. However, if he withdrew the Bill, he could promise those poor people that no exertion should be wanted on his part to pass it next Session; and even if he did not succeed then, he would still undertake that, so long as he had a

seat in that House, so long would he continue his efforts to obtain justice for them at the hands of the Legislature.

SIR JAMES GRAHAM said, he must beg to explain that he had not said that Mr. Tremenheere was an unsafe guide, because he had said that the course recommended would add 10 per cent to the cost of production and 1 per cent to the price, but because he had said that this addition was a matter of no consequence.

MR. DRUMMOND said, he thought the hon. and learned Gentleman (Mr. I. Butt) had had sufficient experience as to following the advice of pretended friends. He never would find anything in that House, unless he forced his Bill, except a predominant desire that capital should succeed at the expense of human life. He would remind the hon. and learned Gentleman of this, that when the Bill was before the House on a previous occasion, it was evident to him that there was a desire on the part of many Members of that House to revert to the slave trade, in order to add to capital. The right hon. Baronet (Sir J. Graham) had said that the maximum of wisdom was the minimum of interference. No doubt such was the case as far as money-getting went, but as far as human life went, it was exactly the reverse. By the manufacturing system, as at present carried on, the sense of parental affection was almost annihilated, and all this for the purpose of getting money. Children were expended as cattle were expended upon a farm. Why, on a recent occasion, did we eat so much American dirt? Simply because a fourth of our exports went to America. In order to keep up that trade we submitted to be kicked; and, to keep up the advantages of the bleaching trade, we sacrificed poor children's lives. He would strongly advise the hon. and learned Gentleman to persevere with his Bill. Committees and Commissions would beat him if he relied on them, and he would, therefore, say to him, "go to a division." He believed that the majority of the Members of that House knew nothing of the evils that resulted from the bleaching trade.

LORD ROBERT GROSVENOR said, he understood that a *prima facie* case for inquiry had been made out, and that then Government took steps for the appointment of a Commission. The Report from that Commission was made last year. That circumstance, however, did not weaken the *prima facie* case for inquiry. Indeed, it made it so strong, that there was not a

Member of that House who would say that they ought not to legislate upon it. The Government told the hon. and learned Gentleman the Member for Youghal that next Session he must move for a Committee. If he did so they would then tell him he must bring in a Bill in order to show what he wanted to do. Now, all that was a wrong mode of proceeding, for it was imposing delays which ought not to be allowed in such a case. If Government were not satisfied with the Report of the Commission, why not appoint another?

MR. CARDWELL said, that in the amusing hands of the hon. Member for West Surrey everything appeared to become new, and when, therefore, he gave utterance to a fallacy long since exploded, it appeared a new thing that had never been ventured on before. On the present occasion he appeared before the House as a friend of labour, and talked of the antagonism between capital and labour. Now, he thought that the hon. Gentleman should have learned one thing, namely, as to the persons who received the most from the increase of capital. The hon. Gentleman had not hesitated to compare the abominations of the slave trade with that great manufacturing industry which had conferred more upon this country than anything during the last century. Then he said that the House of Commons was influenced by the master manufacturers, and not having the labouring classes represented, took no steps to protect those who lived by labour. Had they passed no Factory Bills during the last ten years? At whose suggestion were they passed? Were they carried in deference to the wishes of the master manufacturers or in opposition to them? No doubt in opposition to them, and Parliament did not, therefore, listen to the master manufacturers on that occasion. Such men as the hon. Member for West Surrey (Mr. Drummond) were, in his opinion, the real enemies of the working classes, because they sowed the seeds of dissension between masters and men, where happily there might have been peace and combination. The question now before the House stood thus. It was agreed that they were to have a full and searching inquiry into the question, and he would ask whether it was according to common sense that they should read the Bill a second time now, when it was admitted that there was no intention of proceeding with it during the course of the present Session. If they

read the Bill a second time, and then, after inquiry, did not put the Bill on the Statute-book, they would be deluding and deceiving the working classes. He was certain that they would secure the good feeling of the working classes by instituting a rigid inquiry.

MR. COBBETT said, he had taken much interest in the question under consideration, and had personally made himself acquainted with the feelings and the actual condition of the people employed in bleaching works. After the conclusion of the Session of 1853, he visited the districts of England and Scotland in which principally the bleaching works were situated; and in those works he found that persons were working sixteen, eighteen, and twenty hours a day, in a temperature varying from ninety to 130 degrees. He considered that no one could give attention to a more important question, than one affecting the welfare of the productive classes. The right hon. Baronet (Sir J. Graham) had laid it down to the House that the subject had been long since disposed of when he was Secretary of State for the Home Department. If the subject was disposed of, as the right hon. Baronet asserted, it would be better to resist inquiry altogether than to say, as the right hon. Baronet had said, that he was willing to consent to inquiry next Session. There was an almost unanimous desire in that House that an inquiry should take place at the earliest period next Session; and there was this urgent claim for inquiry, that he personally knew, as he had previously stated, of the sufferings of the bleachers. He was present at some bleaching works, at which he was informed that, owing to the heat in what were called the "roasting shops," three young women had been that morning carried out in a fainting state. A master bleacher had told him that the temperature was frequently so high, that the nails in the floors became heated and blistered, that was, burnt, the feet of those who were employed in those rooms, and who were therefore obliged to wear slippers. It had been said by several hon. Members for Scotch constituencies, that the facts were not so bad as they had been represented to be. All those hon. Members, however, came from one part of Scotland, and it was possible that in their district the evils complained of did not exist. In Glasgow, Paisley, and other places in the same neighbourhood he had himself witnessed the state

Mr. Cardwell

of things which he had described. At a meeting held at the last-named town, Mr. Baillie Browne, he believed the chief baillie, had said, that for many years the operative bleachers had been regarded as little more than mere machines, and had expressed his desire that there should be passed a general Ten Hours Bill for the whole country. To confirm these general expressions he (Mr. Cobbett) would read to the House a statement of the hours worked by two young persons during two weeks of the year. During the week from September 26 to October 1, they worked 102½ hours, namely, on the several days, 16, 17, 18, 23, 13½, and 15 hours each. During the next week they worked, on the several days, 19, 17, 21½, 16, 17, and 14½ hours, making for the whole week 105 hours. The temperature of the atmosphere in which they worked was 130°. In the year 1843 there was a Commission appointed to inquire into the employment of young persons, called "the Children's Employment Commission," the Report of which the right hon. Baronet (Sir J. Graham) seemed to think had decided against legislative interference in the matter. So far was this from being the case, however, that there was a statement in one of the appendices, that many of the master bleachers would gratefully welcome some legislative restriction as to the hours of work, which would put all upon the same footing, and would enable them to resist the pressure of their customers without giving offence. The fact was, that merchants and manufacturers frequently sent goods to a bleacher to-day, or even in the middle of the night, with an order that they must be finished and returned by twelve o'clock to-morrow. The right hon. Baronet had said, that the process of bleaching, when once commenced, must be continuous, as any interruption of it would spoil the goods. He (Mr. Cobbett) had inquired into this matter, and had been informed that the process might, without damage to the goods, be interrupted at the conclusion of any stage. Very many of the master bleachers were, as he had mentioned, themselves in favour of legislation upon this subject. These masters had written to the Secretary of the Bleachers' Committee at Bolton, distinctly stating that they were in favour of a restriction of the hours of labour in their works, and expressing their opinion that such a restriction would never be carried out without the interference of the Legis-

lature. The question now was, should the hon. and learned Member for Youghal (Mr. I. Butt) take a division now, or would it be more prudent to withdraw the Bill for the present Session. He (Mr. Cobbett) was himself very much in favour of dividing, in order that the House might decide whether bleachers were to be protected by enactments or not. He believed that a large portion of the House was strongly disposed to legislate upon the subject, and such an assurance would be a great comfort to these poor people, who were so anxiously looking for the decision of the House on the question. The withdrawal of the Bill, and the appointment of a Committee next Session, will probably put off legislation until after that Session also, and he should therefore recommend the hon. and learned Gentleman to divide. If, however, he came to a different decision, he (Mr. Cobbett) would suggest that the Committee might be appointed and nominated at once, not that it might proceed to business, but that it might be revived next Session. By the adoption of that course much time would be saved.

MR. BAINES said, he had no hesitation whatever in giving such a pledge. He was sure the Government would throw no obstacle in the way of an early appointment of the Committee, and he did not apprehend, from what had passed in the course of the discussion, that there would be any opposition to it on the part of either the right hon. Baronet the Member for Carlisle (Sir J. Graham) or the hon. Member for Montrose (Mr. Baxter). Under those circumstances, he decidedly thought the best course would be to allow the Bill to drop for the present Session, to withdraw all imputations which had been made either on one side or the other, and then at the very beginning of next Session to go into an inquiry of the whole subject with clean hands. At all events, if the Bill were pressed to a second reading now, it would be the duty of the Government to vote against it.

MR. KIRK said, he wished to correct an error which the hon. and learned Member for Youghal (Mr. I. Butt) had fallen into. He said the Bill was identical with that which came down from the House of Lords in 1854. Now how could that be so, when the Bill of 1854 made no reference whatever to Ireland. The fact, however, was, that the factory proprietors of Ireland were not at all opposed to reasonable legislation, nor were they in the least

averse to inquiry; indeed, he had presented repeated petitions from some of them, praying that the Bill should be referred to a Select Committee. In its present shape the measure was highly objectionable; its provisions would retard trade, interrupt the progress of manufactures, and lead to considerable mischief. Now there was no necessity for those restrictive clauses, and he hoped the Bill would be withdrawn with a view to its being considered and amended in a Select Committee.

MR. MUNTZ said, he should support the Bill, because he found that the number of hours specified in it comprised as long a period as any young persons should be obliged to work. No greater mistake, even with a view to their own interests, could be committed by masters than to overwork their people. What was gained in one way by such a system was more than lost in another by the defective manner in which the work was done. There was no getting more out of a human being than his constitution could fairly yield—that was the fact of it. Manufacturers had a right to employ their operatives for as long a period as was consistent with good health and good work, but not for a moment longer. It was manifest that some legislation on the question was imperatively required, and, as no case for further delay had been made out, the House would do well to give its immediate sanction to the present measure.

LORD NAAS said, that no case of hardship had been proved against the master bleachers in the North of Ireland. The operatives in the North of Ireland were not in favour of legislation of this kind; on the contrary, they had petitioned against the Bill of last year. Though the hon. Member for Oldham (Mr. Cobbett) had cited some strong instances of hardship in the bleaching works of other parts of the kingdom, it would be unjust to the masters in the North of Ireland to say that such a state of things existed there as to call for legislation.

MR. WALTER said, that, although he would gladly have been spared the necessity of going to a division on the present occasion—as he thought it not impossible that some good might result from agreeing to refer the question to a Committee—yet if the hon. and learned Member for Youghal should press the Bill to a division, he (Mr. Walter) should certainly go into the same lobby with him. Not having had the good fortune to be present during the early part

of the debate, he would not presume to trouble the House with any speech on the subject; but he felt it necessary to make one observation upon a remark which appeared to him to be the foundation of all objections to such measures as that now under consideration. It was often said, with regard to Bills of this description, that they interfered with the manufactures of the country, but there was one species of manufactures which a certain class of economists were too apt to overlook. He alluded to the 1,000,000 children who were every year added to our population. That was by far the most interesting and important of our manufactures; and when we remembered that upon its character and upon the care taken of it in its infancy depended the future strength and greatness of the nation, we could not doubt that the Legislature would be grossly neglectful of its duty if it did not take care that the youth of the country were so brought up that the developement of their powers of mind and body should not be impeded by that excessive strain upon their system which was the inevitable result of overwork.

MR. WILKINSON said, he objected to legislation on the subject altogether, since the only effect of such legislation would be, not to shorten the hours of labour, but to drive the manufacture from our shores. As to the particular manufacture to which the hon. Gentleman (Mr. Walter) had referred, till people learned not to overstock the market with the product of their labour, the House could never hope to improve the condition of the working classes.

ADMIRAL JONES said, he knew, of his own knowledge, that the workpeople in Ireland deprecated all legislation on the subject. Hand-loom weaving in the north of Ireland was carried on to a great extent in the houses of the people themselves, and he should be afraid to state in that House the number of hours those people worked in their own habitations.

MR. NAPIER said, he had anxiously considered the subject, but every day's experience had made him more jealous of legislative interference in the matter. Evils might exist, but the remedy for those evils was not that proposed by the Bill. He could bear testimony to the prosperity of manufacturers in the north of Ireland, and he thought that interference, such as that proposed, would be rash in the extreme. He should vote against the second

Mr. Walter

reading of the Bill, but he hoped his hon. and learned Friend would postpone the measure.

MR. FIELDEN said, he should vote for the second reading, and hoped that the hon. and learned Member for Youghal would not withdraw the Bill.

MR. W. BROWN said, he was apprehensive that if the second reading were agreed to, expectations would thereby be excited among the working population which the evidence to be taken before any inquiry would not support, but, on the contrary, dispel.

Question put.

The House *divided*:—Ayes 65; Noes 109: Majority 44.

Words added.

Main Question, as amended, put, and *agreed to*.

Second reading *put off* for six months.

SCIENTIFIC AND LITERARY SOCIETIES BILL.

Order for Committee read.

House in Committee.

MR. BOUVERIE said, that a Bill was passed some years ago to exempt from local taxation the premises occupied by societies established for the cultivation of "science, literature, and the fine arts, exclusively." The societies claiming the benefit of that measure had to be certified by Mr. Tidd Pratt, and it so happened that the courts of law had in many instances decided that the certificate of that Gentleman had been given upon insufficient grounds. Under those circumstances, the present Bill had been brought in to declare the finding of the certifying barrister final and without appeal, and also to get rid of the word "exclusively" from the existing Act, which had a restrictive operation. The measure would, therefore, indefinitely extend an exemption which, if not wholly vicious in principle, had already reached its legitimate limit. It would enable the Athenæum Club, or any other institution professing in any degree to promote science, literature, and the fine arts, to escape from the payment of poor rates and other local taxes. Moreover, such an immunity was hardly consistent with the recognised doctrines of political economy, as the advantage it conferred would be swept away by the landlord of the premises in the shape of increased rent. Under the proposed Bill no one could say how far the exemption might extend. Entertaining those objections to the Bill, he

should move that the Chairman report progress.

MR. HUTT said, the object of the Bill was to carry out the 6 & 7 Vict., c. 36, which was not properly understood. The word "exclusively" was contained in that Act, and many difficulties had arisen in consequence. He believed that if the law were strictly carried out no institution would be able to avail itself of the advantages of the law. He did not think it was right to act upon this rigid system. The present Bill, which he had introduced at the request of the Society of Arts, and of a vast number of Mechanics' Institutes, merely proposed to carry into effect the original intention of the Act referred to. According to the decision of a court of law the British and Foreign School Society was not an institution within the meaning of the Act, and the Royal Society, which took in newspapers and periodicals for the perusal of the members, was not entitled to derive any benefit from the Act. He did not propose to introduce any new principle or to extend an old one, but merely to restore to the Statute-book an Act which had been practically effaced by the decisions of a court of law. He believed that even those persons who were most opposed to any national system of education would not wish to see the Mechanics' Institutes obstructed in the beneficial progress they had made in this country. Let them just cast their eyes over the country and see what spontaneous efforts had been made by those men for their own advancement and instruction. He felt assured that the House would have a deep sympathy with them; and, he was happy to say, many eminent statesmen had given their valuable personal efforts to promote the prosperity of such institutions. He believed they deserved the patronage and the consideration of the Government; for although they might not be in every respect the very best instruments that might be devised for education, they suited the tastes and prejudices of the people, and had doubtless been productive of very great benefits. Many of them were kept in existence on very slender and precarious funds, and the slightest failure in their receipts would close many of them. He was sure any support Government might give would be beneficially bestowed, and that it would be thankfully received by a very valuable class of the community.

MR. HADFIELD said, he thought it was a pitiable thing that any opposition

should be offered to the Bill. Churches and chapels, which were frequently places for the rich, were exempted from these rates, and yet institutions established simply for the poor were not to be allowed the same privilege. The right hon. Gentleman (Mr. Bouverie) said that the landlords would be the only persons who would benefit by the remission of the rates, but that was not the case, for landlords would be glad to have such tenants at the ordinary rentals. Besides, the founders of Mechanics' Institutes were anxious to have premises of their own, and the exemption from rates was a great incentive to exertion in that respect.

LORD LOVAINE said, that if the Bill confined itself to carrying out the first Act, he should not object to it. The Bill, however, exempted any building devoted in any sort of way to the interests of science, which was so large a provision that it could hardly be allowed without danger. There was no building which might not in some way or other be made subservient to the interests of science.

MR. E. C. EGERTON said, he cordially supported the measure, for he was of opinion that those who objected that the landlord would derive all the benefit of the exemption overlooked the fact that those societies generally aspired to purchase the land and premises which they occupied, and to make them their own freeholds.

MR. G. BUTT said, the Bill would entirely exempt from rates any building though it were only occupied one day in the week for literary purposes, and during the remainder of the week for purposes of business. The landlord, notwithstanding what had been asserted by hon. Members, would in reality get the benefit of the exemption; and he did not think that that was the object of the Bill. The decisions which had been given by the Courts of Law were entirely in accordance with the Act as it stood. It was now proposed to make the certificate of the barrister final; but to that he strongly objected.

MR. BOUVERIE said the question had been argued as though the Bill referred solely to Mechanics' Institutes; now that was not the case, for the Bill would let in all kinds of buildings. At Greenwich it had been decided by the barrister that a building which was let on hire for lectures, and even theatrical purposes, was within the Act; but on appeal to the Court of Queen's Bench, that decision had been reversed. At Manchester, a place used

for musical performances had also been certified by the barrister as coming within the Act. He was surprised to find the hon. Member for Sheffield (Mr. Hadfield) supporting a Bill which would have the effect of taxing all the rest of a parish for the benefit of those institutions.

MR. W. EWART said, the old Bill had extended beyond Mechanics' Institutes, including places used for literary and educational purposes. The only objection to the present law was because it contained the word "exclusively." He had presented a petition from ninety-two literary institutions in Yorkshire and Lancashire; from which it appeared that some of those institutions were held to come within the Act, while others were excluded. The Bristol Athenæum paid as much as £100 a year in local rates. Now that he considered a very great hardship, seeing that other similar institutions were exempt. Either the law ought to be repealed or equalised in its operation.

MR. HENLEY said, he would remind the Committee that a charter had been asked for on behalf of Her Majesty's Theatre on the ground that it encouraged music and dancing—and the effect of the present Bill would be to let in kindred places of all descriptions. By passing such a measure they would run the risk of being compelled to make no exemption whatever from local taxation, and thus defeat the very object for which the Bill was brought in. He should be glad to see a measure for exempting schools from rates, but its provisions ought to be well defined. There was no uncertainty about the present law; the difficulty of applying it arose from the difference in the institutions.

MR. STRUTT said, he thought it a great mistake to suppose that the benefit given by the Bill would go into the pocket of the landlords. The exemption attached to the institution, and it was not at all likely that landlords would charge a higher rent because the institution was exempt from rates. All were agreed that it was desirable to exempt literary institutions from rates; and they were equally agreed that the object was not effected by the existing Act. Hence the necessity of new provisions. He hoped to see the Bill passed in the present Session.

MR. TITE said, the Bill did not introduce a new principle, but merely extended one already in operation. Mechanics' Institutes had been denied the benefit of the

law because they took in newspapers; and the object of the Bill was to alter the law in that respect. The objections raised to the clause might easily be obviated in Committee.

MR. LIDDELL said, he thought a very little ingenuity would suffice to remove all the objections to the Bill.

MR. MASSEY said, the Bill would extend the exemption far beyond what Parliament had contemplated in passing the original Bill. Any person who was fortunate enough to get the certificate of the officer would be able in this way to avoid the payment of his rates. However desirable they might be to encourage education, they must not throw a burden on the ratepayers by opening the door for a large number of exemptions. The sort of Amendment which was proposed to be made in Committee would only leave the law as it stood. It had been suggested that the word "mainly" or "principally" should be introduced; but the only effect of that would be to increase litigation.

MR. HILDYARD said, he should support the Bill, which he thought most beneficial, and hoped that it would be proceeded with.

MR. JOHN MACGREGOR said, he considered that the Government were to blame for neglecting the working classes and postponing their interests to financial considerations. The Government and the House ought to do all they could to promote and extend education, and Members of the Government might do worse than even patronise the Princess's Theatre. They voted thousands of millions for political objects, but they were chary of hundreds when the advancement of the working classes was the question before the House.

MR. HEADLAM said, he would suggest that they should consider the question in Committee. They were all desirous of promoting education, and they might consider in Committee what words would best carry out that object.

MR. ATHERTON said, it seemed to be apprehended that if they sought to get rid of the objectionable word "exclusively," they might give the measure a wider scope than had ever been intended by its supporters. He could not, however, see any great difficulty in substituting for the objectionable adverb some word or form of words which would, while satisfying the objections urged, carry out the objects proposed by the Bill.

MR. BOUVERIE said, that he retained the opinion he before expressed, but he would withdraw his Motion in deference to what seemed the wish of the Committee.

Motion, by leave, *withdrawn*.

Clause 1 *agreed to*.

Clause 2.

LORD LOVAINE said, he thought the clause would lead to litigation.

MR. HUTT said, that if the Committee allowed the clause to pass, he would endeavour to change the wording by the time of bringing up the Report, so as to carry out the object the Legislature had in view when it exempted certain institutions.

MR. HILDYARD said, he thought it would be easy to suggest words which the courts of law would find no difficulty in interpreting.

MR. BARROW moved that the Chairman report progress, and ask leave to sit again.

The Committee *divided*:—Ayes 25; Noes 117: Majority 92.

MR. HENLEY said, he would suggest that the hon. Gentleman (Mr. Hutt) should fix the Bill for to-morrow, pass it through Committee *pro forma*, and then present it in its amended form.

House resumed; Committee report progress.

The House adjourned at Six o'clock.

HOUSE OF LORDS,

Thursday, July 3, 1856.

MINUTES.] PUBLIC BILLS.—1^a Labourers' Dwellings Act, 1855, Amendment; Advowsons; Distillation from Rice; Oxford College Estates.

2^a Cambridge University; Small Debts Imprisonment Act Amendment (Scotland).

3^a Reformatory and Industrial Schools; Annuities Redemption; Stock-in-Trade Exemption.

REFORMATORY AND INDUSTRIAL SCHOOLS BILL.

Bill read 3^a, (according to Order), with the Amendments; a further Amendment made.

THE BISHOP OF OXFORD moved the insertion of the following after Clause 5:—

"So much of the said first-recited Act as provides that no youthful offender shall be directed to be sent to any reformatory school by any court, judge, sheriff, or magistrate, until after the expiration of his sentence, nor unless he shall be sentenced to a punishment of imprisonment for fourteen days at the least, shall be and is hereby repealed; and it shall henceforth be lawful for any such court, judge, sheriff, or magistrate, having authority under the said recited Act,

or this Act, to direct any such youthful offender to be sent to and detained in any reformatory school, to mitigate or commute any sentence of imprisonment which may be passed on any such offender, so far as relates to the actual confinement of such offender in a common prison or house of correction, if in the exercise of their or his discretion it shall appear expedient so to do; and, in lieu thereof, it shall be lawful for such court, judge, sheriff, or magistrate, to direct such offender to be sent to and detained in a reformatory school according to the provisions of the said recited Act and this Act, as well during all or any part of the term of such sentence as for any further period not less than or exceeding the limits prescribed by the said Act."

The right rev. Prelate said, this clause had been thrown out in another place, but by a thin House. He thought it should be left to the discretion of the committing magistrate, whether imprisonment should be a preliminary to a reformatory, as it was obvious that, of the two classes of juvenile offenders, while a short term of imprisonment might be beneficial to the hardened criminal, it would only do harm to those who had been apprehended probably for a first offence, and would be contaminated by even a temporary contact with older criminals. He, therefore, begged to move the insertion of the clause.

LORD RAVENSWORTH said, the question of reformatories had scarcely been yet settled by the State. When the public sentiment became strong on the subject, the Government took the matter into their hands. Legislation on the subject, however, did not become perfect all at once; it did not spring, like Minerva, from the head of Jove. Accordingly changes had already been made, and others would doubtless yet be called for. He thought the Bill a very good one as it stood, and as the clause had been thrown out in the other House, he was averse to the right rev. Prelate's proposal. He would, however, assent to the proposed clause, with an addendum in the shape of a proviso, "provided that such offenders shall be under the age of twelve years."

After some conversation, the purport of which could not be heard,

On Question, their Lordships divided:—Content 53; Not-Content 17: Majority 36.

Clause *agreed to*: Bill *passed*, and sent to the Commons.

DIVORCE AND MATRIMONIAL CAUSES BILL.

Amendments *reported* (according to Order).

THE BISHOP OF OXFORD then moved the Amendments of which he had given

notice, and moved the omission from the Bill of Clauses 19, 20, 21, 22, 23, and 24. The right rev. Prelate said there were other matters connected with the Bill to which those Amendments did not refer, but which were well worthy of consideration. He believed that the majority of their Lordships were of opinion that it would be of great advantage that the civil action which was at present maintained for criminal conversation should be done away with. His noble and learned Friend had talked of introducing a measure upon the subject at some future period; but he could have wished that he had addressed his vigorous mind to considering how a clause to that effect could be at once introduced. One argument which had operated on the Committee for retaining this action was, that in certain cases the husband was not only injured by the loss of his wife but by the loss of property to himself and family; but that was a matter which might, he thought, be most properly left to the tribunal which the noble and learned Lord proposed to establish, and he did not see why power might not be given to that tribunal in such cases to inflict a fine upon the adulterer, which would be at once a penalty for the crime, and a compensation to the sufferer for the wrong done him. The whole subject might by some such means have been included in the present Bill, and then the judicature of the country would have been purged of what he believed most of their Lordships would agree with him was a monstrous evil—namely, the civil action for damages for criminal conversation. He would next proceed to say a few words with regard to those points to which the Amendments of which he had given notice referred. As he had stated on a previous occasion, the preponderance of his judgment went to the opinion that the great Lawgiver of the Christian world did exclude from the sentence of condemnation pronounced against persons who put away their wives those persons who put them away on account of adultery. Our blessed Saviour, in introducing a greater degree of strictness into the law of divorce, and in his declarations with regard to it, made the exception of divorce on the ground of adultery. He was bound to admit, as far as the abstract question was concerned, that a Christian State ought, if it could without incurring other and greater evils, to give the same amount of liberty as was permitted by the great legislator of all

The Bishop of Oxford

Christian communities; and, therefore, if the question were whether it was lawful for a Christian State abstractedly to provide means, if it could, by which, with safety to morals, this new relaxation could be introduced, he should be unable himself to vote against such limited relaxation. But the question before their Lordships was of a very different kind. A measure was proposed to them under this profession—that, whereas now only the rich could obtain this relaxation by separate *privilegia*, justice required that it should be carried down to the lower orders of society. Now, in dealing with the Bill as a practical question, he objected, in the first place, that it would not carry into effect its professed object. It was perfectly impossible that the class for which they were mainly asked to introduce this new relaxation could obtain any relief whatever from the Court which it was proposed to found under the Bill. The funds which would be required for putting the machinery of that Court into action could not be provided by the poor, and the poor were just the class to which he would most desire to give a remedy, if it could be done without incurring greater evils. By altering the law as now proposed their Lordships would give to the comparatively wealthy the power of putting away their wives under certain conditions, while withholding it from the great mass of the population. That, as it appeared to him, was a strange way of fulfilling the profession with which the Bill was introduced; and he believed it would be doing a great wrong to society, inasmuch as it would make the law of the land say that such divorces were lawful, and yet would withhold the application of the law from the great bulk of the people, who stood most in need of such a relaxation. Moreover, he maintained that they should not propose any alteration of the existing law which affected in this way the whole of family life, without showing that in making provision for the relaxation which they were about to introduce they were not doing great evil in other respects; that they were not shaking the very foundations of family life and endangering its purity throughout all classes of the community; because, although the thing itself might be right, he would remind their Lordships that the abstract lawfulness of the proposed relaxation did not foreclose the argument that the way in which they were asked to introduce it would give rise to other cer-

tain and great evils which would more than counterbalance the anticipated good. For his own part, he could not for a moment doubt that by introducing this perfectly novel principle they would do more to shake the sanctity of marriage among all classes of the community than by almost any other measure that could be adopted. When it was said that under the law of Christ a man was allowed to put away his wife for adultery, and that therefore a Christian Legislature was bound to give the same degree of relaxation, without any limitation or restriction, he would beg their Lordships to remember that the same law laid down that marriage was honourable for all; and yet a Christian Legislature had never deemed it a wrongful infringement of the liberty of man to marry to enact that no person should be permitted to contract marriage until he was twenty-one years of age without the consent of his parents. Here was at once a restriction upon what appeared to be divine law. In all such matters they had not only to consider the abstract question of whether so and so might be allowed, but likewise whether the mode in which the assertion of the abstract principle of right was to be made would *obiter* draw on evils so great as ought to restrain them from proceeding in that particular way; and it therefore seemed to him, inasmuch as they could not stop where the present Bill stopped, inasmuch as they were not prepared to give the courts sufficient power and authority to guard against collusion and other evils, inasmuch as the Bill would not extend the proposed relaxation to the great mass of the population, that they should pause before proceeding further in such a line of legislation. There were other grave considerations in this matter. Were they prepared, by passing this Bill, to say that the law of the Church and the law of the State should be in direct opposition to one another; At all events they were bound, if they meant to maintain the Established Church, and not to burden the consciences of its ministers, to give the Church an opportunity of considering the question with the view of having its law altered *pari passu* with the law of the State. There was yet another point to which he begged the attention of their Lordships. The Bill proposed not only that a husband should be permitted to put away his wife for adultery, but also that a wife should be allowed, under certain conditions, to put away her husband. Now,

would any of their Lordships tell him that there was the shadow of a foundation in the Gospel for such an extension of the right of divorce? It was distinctly stated that a husband might put away his wife, but no general principle was asserted in the Gospel which would equally entitle a wife to put away her husband. It seemed to recognise an equality in the sexes; but the truth was, that though the sin might be equal in each—though he denied not that the sin was equal in each—yet the social crime was different in magnitude as committed by the one or the other; and our blessed Master, while allowing a husband to put away his wife for adultery, because all the highest purposes for which marriage was instituted by God would be defeated by the infidelity of the wife, never extended the same right to the other side. He asked their Lordships was it right, in the face of that interpretation of the Holy Word, supported as it was by the greater part of Christendom—in the face of the law of the Church—was it right to put this interpretation upon the Lord's Words? Was it right to extend this licence to the whole population—nay, more, was it right to give to a limited portion only of the community a licence which would be practically withheld from the greater part of it—on grounds so slender and uncertain? Taking the Bill as it stood—a law solely for the rich and not for the poor—he trusted that their Lordships would not pass it another stage without striking out the clauses to which he thus ventured to object. The duty which he was now discharging was a very painful one, especially to one occupying the position which he had the honour to hold in that House. He knew it would subject him to great misrepresentation. Those who were suffering under individual instances of hardship, deeply as he sympathised with them, would think that he was doing everything in his power to prevent their release from a position which they imagined to be an unexampled evil; but, believing that the deep foundations of family life rested upon the sanctity of the marriage contract—believing that many and great evils would arise from that licence which would inevitably follow the adoption of the Bill as it stood—believing that family life, valuable as it was to every one, was most valuable to the poor man, who felt that amid the many hardships of his lot it was the one thing which God had given to him for his strength and comfort—and believing that no good could result

from a general relaxation extending to the wife as well as to the husband, he trusted that their Lordships would not pass the Bill without omitting the clauses to which he took objection. The right rev. Prelate concluded by moving the omission of Clauses 19 to 24 both inclusive.

THE LORD CHANCELLOR said, he was sure their Lordships could not have failed to see that his right rev. Friend confused two principles which were perfectly distinct; and he proposed in effect to strike out from the Bill all that formed the foundation on which it was introduced,—viz., the necessity of giving a judicial character to that which was substantially a judicial proceeding. His right rev. Friend had argued as though it was proposed by the Bill to make it obligatory on any one to insist on a divorce; but its object was to give facilities for divorce, which he could not believe was inconsistent with the Scriptures; which, in like manner, did not make divorce compulsory but only permissive. He (the Lord Chancellor) started with the assumption that there was nothing in the Scriptures that forbade a husband from putting away his wife for adultery; and, starting from that point, he would ask, what ought to be the course of sensible legislation on the subject? Surely, it must be to give to a person complaining of adultery such facilities for divorce as the nature of the case permitted and as were not inconsistent with the Divine Law. What had been the course hitherto pursued in this country? On the pretence that divorce *à vinculo* was unlawful, the law of this country absolutely and entirely forbade it; but nevertheless, in every case where a person had the pecuniary means of coming to their Lordships' House for a private Act of Parliament, it enabled him to obtain redress substantially as a right. Now, this Bill provided that that which had hitherto been obtained by parties as *privilegia*—but which were invariably claimed as a right—should be in future granted by a regular tribunal as a right. His right rev. Friend complained that there would be inequality in the working of the law, and said that the Bill would be a nullity and a mockery, because persons in the lower class of life would be unable to obtain the redress granted to the rich. But that would be a reason for refusing to legislate on almost every subject. The rich had necessarily a great advantage over the poor in all cases requiring an appeal to a court of law, as such proceedings were, in

The Bishop of Oxford

the nature of things, always more or less costly; but was that any reason why the Legislature should not do as much as it could in the way of giving relief to all? The object of the Bill was to render proceedings for divorce less complicated, less difficult, and less expensive than now; and it was no argument against it that all would not be able to avail themselves of the alteration. To retort an argument used by the right rev. Prelate in the discussion just concluded—if we cannot make the law perfect, that is no reason why we should not make it as perfect as possible. When he first introduced this Bill, he confined the relief to the husband, and to the wife simply to one case—the case of incestuous adultery; but in the Committee it was thought that the relief to the wife might reasonably be extended to certain other cases—such as when a husband had not only committed adultery but deserted his wife for a certain number of years; when he was guilty of cruelty along with adultery; and when he had committed bigamy. The Bill, therefore, had been altered so as to give relief to the wife in those few cases; but it was not deemed prudent to carry the principle further. He did not wish to speak lightly of adultery on the part of a husband, but he quite coincided in the doctrine laid down by the right rev. Prelate as to the difference between adultery on the part of the wife and that of the husband. It would be mere prudery and affectation to say that the evils were socially the same. The committal of adultery on the part of the husband was consistent with a subsequent reconciliation of the wife, and the parties might live together happily afterwards; but the thing was, in ordinary cases, impossible when the same sin was committed on the part of the wife. He believed the Committee had arrived at the best conclusion that could be come to on the subject, when they granted relief to the wife in these few cases. If, however, his right rev. Friend was correct in saying that to grant a divorce in any case at the instance of the wife was to do an act forbidden by the Scriptures, then, of course, it ought not only to induce their Lordships to pause, but at once to reject that part of the Bill. He could not, however, so interpret the passages to which the right rev. prelate alluded. If there was Scriptural authority for saying that it was lawful for a husband to put away his wife for adultery, did it not in the present state of society follow as a corollary that the con-

verse of the position was true, and that it was not unlawful for the wife to put away her husband? He did not say it followed that it might always be done for the same cause; but he could not agree with his right rev. Friend in an interpretation which amounted to entire prohibition. He repeated that the proposal of his right rev. Friend would have the effect of rendering the whole Bill nugatory, because if in no case the relief of a divorce *à vinculo* was to be granted all the remaining provisions of the Bill fell to the ground. If their Lordships thought there ought to be no divorce under any circumstances whatever, then let them adopt the proposition of his right rev. Friend; but if they did so, he would conjure them to come positively to the determination that none of the petitions for divorce which came before their Lordships' House as *privilegia* should hereafter be listened to.

LORD REDESDALE said, he thought they ought to treat this question as one affecting the morals and habits of the people at large. Hitherto divorce had been a thing withheld from the people at large, and the consequence was that the marriage law was held more sacred in this country than in any other country in the world. They were now going for the first time to make divorce possible by a legal process, and he cautioned them that if they did so it would not be possible to confine cases to the court constituted by the Bill. They would find themselves compelled to act up to their theory, and to provide a cheaper tribunal for the lower classes than that created by this Bill. But it followed from their thus lowering the character of the tribunal they would lower the character of the inquiry, and they would thus get rid of much of the security which was guaranteed by the constitution of the present court for the stability of the marriage tie. At present, where tempers differed, the parties felt that they must nevertheless remain together and accommodate themselves to each other, and this knowledge, in his belief, had caused the marriage state to be so happy in this country. A Motion had already been proposed to extend divorce to cases of desertion, and, depend upon it, if once the door were opened the example of Germany and other countries would be followed, and divorce would be allowed for incompatibility of temper. Who would be hurt by the rejection of these provisions? There were very few persons who were unfortunately

under the apparent necessity of seeking for the dissolution of the marriage tie—and those parties might feel some injury by the rejection of this Bill. But who were affected by this Bill in an injurious manner, although indirectly? Why, every single marriage was touched more or less by the principle of the present change in the law. It was, therefore, expedient for the House to consider how far divorces, when granted, were conducive to the happiness of the parties concerned. If their Lordships were to examine the history of twenty or thirty divorces, they would not find more than two or three instances in which anything like happiness had been enjoyed by the parties who had obtained a divorce. In numberless cases no re-marriage took place, and where there were children the greatest distress and inconvenience were experienced. If Parliament were to determine that divorces *à vinculo* should be no longer granted, that decision would only prevent three or four divorce bills a year from being brought forward; and would, perhaps, only affect fifty or sixty couples, while the change affected the whole marriage law of the kingdom. He should cordially support the Amendment of the right rev. Prelate.

LORD CAMPBELL said, that the noble Lord (Lord Redesdale) had always been consistent in maintaining that marriage was, by the Divine law, indissoluble. The noble Lord was a member of the Commission over which he (Lord Campbell) presided, and in which the noble Lord (Lord Redesdale) stood alone. That Commission was composed of men of all parties, and the noble Baron was the only member who contended that divorces for the adultery of the wife ought never to be granted. The noble Lord now said, that if their Lordships rejected these provisions they ought never to allow petitions for divorce Bills to be presented to them. But were their Lordships prepared to come to such a determination? For 200 years the husband had had this remedy as a matter of course. If he had not been guilty of misconduct, if there had been no collusion and no blame on his part, and if he proved adultery on the part of the wife, the marriage was dissolved. Although this divorce took the form of a legislative act, it was, in fact, a judicial process. That had been the practice for two centuries, and it had continued without any remonstrance from the right rev. Prelates or from any other members of their Lordships' House. Were

they now prepared to say that, however immaculate and exemplary the conduct of the husband might have been, if his wife were seduced he was to have no redress? Did the noble Lord mean that he was to live with her again—that there was to be condonation, as in that scene in the German play of *The Stranger*—and that the parties should shake hands and return to the marriage state? But, then, if there could be no condonation for the adultery of the wife, ought there not to be separation? The Divine Founder of our religion certainly permitted divorce for the adultery of the wife, and he trusted that their Lordships would not be prepared to change that law, which had substantially existed for so many years, and under which so much domestic purity had existed. The right rev. Prelate (the Bishop of Oxford) did not consider the marriage tie indissoluble—nor, indeed, could he, for he was not a Roman Catholic, and did not regard marriage as a sacrament. The right rev. Prelate would allow marriage accordingly to be dissolved for the adultery of the wife. But was the right rev. Prelate content with the present state of things? He said that he wished all persons to be placed on the same footing in regard to the administration of the law. At present, however, the man of moderate means was absolutely cut off from the application of the law as it stood. Did the right rev. Prelate, however, wish the law to remain as it now stood? Upon that point his right rev. Friend was obscure. He (Lord Campbell), however, believed that by passing the present measure their Lordships would effect a great improvement and would remove a great reproach from our judicial procedure. The Commission appointed by Her Majesty to consider this subject had, with the exception of the noble Friend, unanimously recommended this Bill. As some years had now elapsed he might mention that the Report of the Commissioners was drawn up by the present right hon. Member for the University of Cambridge (Mr. Walpole), no rash reformer, it must be admitted, and a man not likely to disregard the cause of religion and morality. Instead of an Act of Parliament being preceded by an action for criminal conversation, and a suit in the Ecclesiastical Court for a divorce *à mensâ et thoro*, and then canvassed in both Houses of Parliament, a judicial tribunal would be established by which on proof of the offence a remedy was given. He agreed with the right

and Campbell

rev. Prelate that the remedy ought to be afforded to the poor as well as to the rich—to all husbands who could prove themselves free from any imputation of misconduct in the marriage state, and who had had the calamity of having an unfaithful wife. In one instance their Lordships had allowed a husband, so situated, to sue in that House in *formâ pauperis*, and he knew no objection why husbands should not be allowed to sue in *formâ pauperis* before this new tribunal, and have the means supplied to them, if they could make out that they had no means of calling witnesses and meeting the necessary expenses of having their complaints heard. He did not see why the privilege should not be converted into a right of general application. He knew that the Ecclesiastical Courts would not dissolve marriage, because they were not empowered by law to do so; but he knew nothing in the law which declared marriage to be indissoluble. Archbishop Cranmer was of opinion that a remedy should be given to all those who could prove the infidelity of their wives; and the Commission to which Cranmer belonged reported, that there ought to be a legal tribunal, whereby, on proof of adultery by the wife, marriage might be dissolved. He was not aware that it required any act of Convocation to allow their Lordships to proceed with this Bill; and, with all the respect which he felt for the Church, he considered marriage a civil contract on which Parliament had an undoubted right to legislate. He had heard a right rev. Prelate say it was exceedingly wrong for their Lordships to pass the Bill allowing marriage without going to church, because it was a purely spiritual proceeding, over which the Church, and the Church alone, had jurisdiction; but, with all his respect for the Church, he protested against that doctrine. He believed that if their Lordships should reject this Bill they would commit a great error, by continuing a state of the law that was a disgrace to this country.

THE BISHOP OF ST. DAVID'S thought the noble and learned Lord who had just spoken had not done justice to the argument of the noble Lord the Chairman of Committees (Lord Redesdale), and had done palpable injustice to the argument of his right rev. Friend (the Bishop of Oxford). He did not observe that any part of the able argument of the noble Lord (Lord Redesdale) turned, in the slightest degree, upon the peculiar

opinion which he held, as to the absolute indissolubility of the marriage tie. The noble Lord appeared to him to have carefully avoided any reference to that opinion, and although he (the Bishop of St. David's) did not share in that opinion, nevertheless he could, with perfect consistency, concur in every part of the argument of the noble Lord. It might be true that, entertaining that opinion, the noble Lord would not view with dissatisfaction the abolition of the remedy now provided as *privilegia*; but, whether that remedy was abolished or not, his argument, being entirely irrelevant to it, would remain precisely the same. He (the Bishop of St. David's) himself was not very greatly alarmed at the prospect of the abolition of that remedy, because, as it clearly applied to a very small class of cases, whether it remained or was abolished was of very slight importance. But the ground of his objection to the present measure was, not that he was not content that that remedy should remain—the only question being, whether it should or should not be extended. With regard to his right rev. Friend, he did not observe that he objected to the continuance of those *privilegia*, provided the remedy was purified of some of the preliminary abuses, which were the strongest, if not the only objections against it. Whether the remedy was provided in its present or in another form was a question of no importance, compared with that which the noble and learned Lord (Lord Campbell), to his great surprise, had overlooked, and to which the main arguments of the noble Lord (Lord Redesdale) and his right rev. Friend were addressed—namely, the effect which might be expected to ensue, in all relations of society, from opening to all classes the prospect of the dissolution of the marriage tie. The real question was, whether there were any such grievances for which this Bill provided a remedy as would counterbalance the evident evil which had been pointed out as resulting from this great change—a change, the operation of which was clearly to lower the sanctity of the marriage tie. He should not have troubled their Lordships except for the single purpose of recalling attention to what, he apprehended, was the main point of the question.

THE EARL OF DONOUGHMORE said, that as he took part in the discussion in the Select Committee, he wished to offer a few words in explanation of the judgment which he had formed upon this subject. The right rev. Prelate (the Bishop

of Oxford) admitted that divorce for adultery of the wife should be permitted; but he went on to say there were various reasons of policy which should prevent their giving relief to the husband, except by the circuitous mode of a private Act of Parliament; and the right rev. Prelate said, that if they passed this Bill they would place the law of the State in direct contradiction to the law of the Church. As far, at all events, as permitting divorce for adultery of the wife, the law of the State, according to the right rev. Prelate, had the authority of Holy Scripture in its favour; but the law of the Church was against it. What was the law of the Church? It was a remnant of old Roman Catholic times—a remnant of those laws which were made by the priesthood for the purpose of obtaining complete control over the people, and an invention to raise quibbles with the object of levying taxes for dispensations on the marriages of the whole population of Europe. It was confessedly by mere accident that this part of the ecclesiastical law was retained in our jurisprudence. As had been stated by his noble and learned Friend (Lord Lyndhurst), a commission of learned persons, ecclesiastics and laymen, was appointed by King Henry VIII. to consider what changes should be made in the law in consequence of the complete disruption of our Church from the authority of the See of Rome, and the result was a book, written by Archbishop Cranmer, which laid down the principle that divorce for adultery of the wife should be permitted. In the latter part of his speech, the right rev. Prelate said there was no express authority in Scripture for divorce for adultery of the husband; but he seemed to forget what was the condition of women relative to their husbands in those times. Women were slaves; they were not the equals of the men; they had none, or scarcely any, civil rights; and it was impossible to conceive a case in which women would or could appeal to any tribunal for redress against their husbands. One of the great efforts of the Divine law was to raise the condition of women, and to place them upon a footing upon which they had never previously stood, and in a position in which they were not now placed in any country which did not enjoy the blessings of Christianity. All that was intended to be bestowed upon man by that law was also intended to be conferred upon woman. Thus, fair reasoning could lead to no other con-

clusion than that the liberty given to man to put away his wife on account of adultery extended equally to the wife in similar cases. Any argument based upon a strict literal interpretation of Scripture would lead to dangerous results. The name which the right rev. Prelate (the Bishop of Oxford) bore was associated with an act of justice and mercy, one which had conferred honour upon that name and upon the country which had acted upon the advice of his illustrious relative, and declared the absolute equality of men, and that no man could lawfully be a slave to another. But if in those days the Holy Scriptures had been interpreted in the rigid sense which the right rev. Prelate wished now to be adopted, it might then have been said with great force that slavery was approved of and spoken of in Scripture as an institution; that a slave was sent back to his master by St. Paul; and that therefore it would be acting against the law of our Saviour to abolish slavery. That argument would have been equally convincing as that now used to induce the Legislature to withhold from a wife the power to separate from her husband, which the latter already enjoyed in respect of his wife. The noble Lord (Lord Redesdale) had objected to the Bill, that it might be made to go even further than was at present intended. He (the Earl of Donoughmore) trusted that it would go further. He hoped the day was not far distant when Parliament would adopt a general law dealing with this subject in the plain common-sense view which had prevailed in Scotland for years without having inflicted any injury to the morals of the people—that we should recognise the fact that a wife had the same rights of divorce as the husband. Great stress had been laid by the noble Baron and by both right rev. Prelates upon the danger likely to ensue from the liberty of divorce which the Bill would give; but in reply to that apprehension, he would refer to the case of Scotland, where the liberty had existed for years, and without producing any deteriorating effect upon the morals of its people.

THE EARL OF DESART observed, that at present divorce was not legal, but in extreme cases the aggrieved parties had an appeal to that House. By the Bill, however, it was proposed to make what was now an exceptional act a legal habit, and if that were done, it must descend below the point at which it was now intended to stop. Although the Bill pro-

The Earl of Donoughmore

posed an unexceptionable tribunal to administer the law, when the public found that divorce was a legal habit, they would not be content with that arrangement, and he feared that the result would be the establishment of some kind of petty sessions' divorce tribunals, which would degrade marriage from its present character to one of connubial concubinage. He thanked the right rev. Prelate (the Bishop of Oxford) for stating his views so clearly as he had done, and hoped they would be adopted by the House.

THE BISHOP OF SALISBURY said, that as the noble and learned Lord (the Lord Chief Justice) had spoken of the noble Baron's (Lord Redesdale's) opinions as very peculiar ones, he felt bound to avow before their Lordships that his own convictions were clear that the noble Baron was right, and that the Bill before their Lordships' House was founded on wrong principles. He did not rise to justify this conclusion by any reference to the canons of the Church or ecclesiastical law, but he rested his argument simply and solely on the Word of God. He felt the great difficulty of entering upon such an argument in that House, but he also felt that one holding his office and having his convictions was bound to state to their Lordships, and try to vindicate in their hearing what he believed to be the truth of God's most Holy Word; and he was sure that their Lordships would patiently listen to such a statement of his opinions. To come to a right understanding of our blessed Lord's teaching on this momentous question, their Lordships must remember the provisions of "the writing of divorcement" to which reference was made in the Gospel of St. Mark, and, what was of more importance, in those two passages of St. Matthew's Gospel which were constantly referred to as sanctioning a relaxation of the present law of our Church and nation. The writing of divorcement, the *libellum repudii*, allowed by Moses, provided both for separation and re-marriage. The husband said, "*accipe libellum repudii et esto à me abjecta et cuicunque viro permissa.*" But our Lord cancelled these provisions, and made separation and re-marriage impossible. Thus it is recorded of Him by St. Mark that He said, "If a woman put away her husband and be married to another, she committeth adultery; and in St. Matthew we find the same judgment of our Lord recorded, though in a different way. Our Lord's words in the 5th chap-

ter of St. Matthew are "Whosoever shall marry her that is divorced committeth adultery;" and His words as recorded in the 19th chapter are almost the same: and in both these passages it is observable that in speaking of the woman divorced the article is omitted—that it is not *τὴν ἀπολελυμένην*, but *ἀπολελυμένην*, which would include every divorced woman, whatever was the reason of her divorce. From these passages it seemed to him (the Bishop of Salisbury) plain what our Lord's mind was with regard to the woman—that separation so as to re-marry was impossible. Nor was it less clear with regard to the man. Thus He said, according to St. Mark, "Whosoever shall put away his wife and marry another, committeth adultery against her;" and again, according to St. Luke, "Whosoever putteth away his wife and marrieth another, committeth adultery. He (the Bishop of Salisbury) thought that no teaching could be more plain than this, and he could come to only one conclusion—viz., that our Lord had annulled the provisions of the *libellum repudi*, and that divorce and re-marriage were, according to the law of Christ, impossible. He, however, admitted that there was one exception allowed for divorce—not for divorce and re-marriage, but for separation without the power of re-marrying—and that was in the case of adultery. This one relaxation of the law of our Lord is recorded both in the 5th and 19th chapters of St. Matthew. In the former the words are "Whosoever putteth away his wife, saving for the cause of fornication, causeth her to commit adultery." In the latter passage the words are, "Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery." Nor was this relaxation confined to one sex. Our Lord made man and woman entirely equal in this matter. The case of exception included the woman as well as the man. The words of St. Paul, in the 7th chapter of his First Epistle to the Corinthians, "If she depart," imply that it was possible for the woman in some case—viz., in that one case declared by our Lord—to get a divorce from her husband; not such a divorce as to be re-married, but only such as would enable her to act upon the revelation of God's mind given by the same Apostle, "let her remain unmarried, or be reconciled to her husband." And even this one relaxation was still further guarded; though they who availed them-

selves of it would not incur the sin of adultery, they would be doing that from which our Lord, through His Apostle, would dissuade them. The higher standard to which he would bring them He set before them in these words of his Apostle—"Let not the wife depart from her husband. Let not the husband put away his wife." He (the Bishop of Salisbury) had thus laid before their Lordships what he believed to be the mind of God, in the new dispensation, with regard to the subject on which their Lordships proposed to legislate. His conclusion was that it was contrary to the teaching of our blessed Lord for a husband to put away his wife, or a wife to put away her husband, and marry again. He entreated their Lordships to weigh well what they were doing, because it was his most solemn conviction that they would, if they passed this Bill, not sweep away (as it had been said in the debate) only the relics of the Roman Catholic religion, but pass enactments contrary to the plain letter of Holy Scripture. He entreated them to pause before they arrayed all those who read Holy Scripture as he did against any decree which man might make on the subject—he entreated them not to give their verdict against what he could not indeed say was a perfect *consensus* of all interpreters of Holy Scripture, but which had been the law of our country for ages, and which he in his conscience believed was the true interpretation of Holy Writ, and the only one which could keep the law of marriage, and the administration of that law, at the level of those high sanctions with which our Lord has Himself shown us marriage was surrounded before the Fall. He would only add, that one thing had at any rate been gained by this discussion. It had been admitted on all hands that, if the present law, which made marriage indissoluble, was right, wealth and station ought not to purchase exemption from its sanctions; and that if it was wrong, and that some relaxation of it was conformable to the mind of our Lord, the poor should, as Christians, enjoy the same privileges as the rich.

VISCOUNT DUNGANNON said, that though defects might exist in the present system, he could not but fear that the remedy proposed was far worse than the disease, and that if you once made divorce a part of the law of the land it would be the means of introducing great confusion into society and causing vast unhappiness.

to the community. He could not help concurring with what had fallen from the noble Lord the Chairman of Committees, and hoped the House would support the Amendments of the right rev. Prelate. He believed that the difficulty which had hitherto existed in obtaining a divorce was in a great degree the cause of the morality which existed in this country with regard to the observance of the marriage state. The morality would be shaken to its very foundations by the present measure, and he could not therefore give his sanction to a Bill which, to say the least of it, was fraught with danger to the morality, the well-being, the order of society, and the happiness of the community at large.

THE EARL OF DERBY: My Lords, I am not going to prolong this discussion, or to enter into the very elaborate arguments we have heard adduced in support of the views entertained with regard to the dissolubility or the indissolubility of the marriage tie. I cannot help observing, however, that, even among those who agree with the proposed Amendments of the right rev. Prelate, there is a very considerable difference of opinion on this subject. Undoubtedly the right rev. Prelate (the Bishop of Oxford) did not contend for the indissolubility of the marriage tie, and admitted that there existed high authority for asserting that in certain cases, and under certain conditions, the marriage tie is dissoluble. The right rev. Prelate, who has since addressed the House (the Bishop of Salisbury), appears also to consider that the marriage tie is, to a certain extent, dissoluble as regards the man; yet, if I understood him rightly, the man is, under no circumstances, entitled to marry again. My noble Friend (Lord Redesdale) again contends that, under no circumstances, either by the law or the Gospel, is the marriage tie dissoluble. I did not understand the right rev. Prelate (the Bishop of Salisbury) to contend that the marriage tie was indissoluble. [The Bishop of SALISBURY: Yes, I did; but I said that the woman might be "put away."] Well, that is a nice distinction, which I cannot very well understand; but I will not enter into that point. I rose, my Lords, mainly for the purpose of putting to the noble Lord on the woolsack, or to my noble and learned Friend (Lord Lyndhurst), a question which, to my mind, is of considerable importance, and which may, to a certain extent, influence the vote which I am called upon to give on this question. I cannot concur

Viscount Dungannon

with my noble Friend at the table (Lord Redesdale) in the indissolubility, however much I may respect the sanctity of marriage. I do believe there are cases in which it is competent for human authority to give its sanction to the dissolution of the marriage tie. I cannot feel satisfied with the existing state of the law, because it says one thing while the Legislature says another, and because, too, under it, there is a great disadvantage, a great inequality, as regards the condition of the rich and the poor. Assuming that marriage may be dissolved in certain cases, the question then arises, by what agency shall that process be effected? My noble Friend (Lord Redesdale) says very consistently, "By no means at all; the Legislature should admit of no exceptions." But I say, not admitting that doctrine of indissolubility, if the marriage tie is to be dissolved at all, let the law of the land have an equal operation, and do not accomplish this object by exceptional legislation, setting aside the law. I am, therefore, altogether favourable to the principle of this Bill, and I confess I have been unable to hear from the authorities quoted to-night anything in Scripture or anything in reason which should prevent the Legislature from dealing with this question. When, however, I look to the probable consequences of passing this law, to the consequences of facilitating the dissolution of this, the most sacred of ties, I confess I think we are bound to regard those consequences—we are bound to ask whether by this legislation we are not sanctioning great laxity with regard to marriage, and giving facilities for the dissolution of that tie, which, except under certain circumstances, ought never to be dissolved. Are you not by this Bill offering great temptations to collusive divorces—to adultery practised by the connivance of the husband or the wife for the purpose of obtaining a divorce? If you are, then I say you are entering upon a most dangerous course of legislation, and one against which it will be exceedingly necessary to guard. Now I cannot but own that if you give facilities for obtaining divorces to the middle and lower classes—classes by whom at present the idea of a divorce is not to be entertained—I fear it may tend to collusive adultery; I fear that convenient arrangements may be made between the parties for the purpose of procuring a divorce; that where persons have become mutually disagreeable, acts will be committed for the

very purpose of gratifying their mutual inclination and of entering into a separate marriage. This would be a serious evil, and one against which it is right we should take some precautions. Now, my right rev. Friend (the Bishop of Oxford), if I may be permitted to call him so, has given notice of an Amendment which appears to me to introduce a sufficient, or, at all events, a very considerable check upon what I fear may be the consequence of the legislation we are now contemplating. He has given notice of his intention to introduce, after the 24th clause, a proviso which, in the case of a divorce, prohibits the party who has been guilty of the adultery from obtaining, perhaps, the very object he had in view—namely, a marriage with the person with whom that adultery had been committed. Such a provision, I say, would in my opinion meet, to a great extent, the precise danger we apprehend. I know not if it be possible for this Bill to pass during the present Session of Parliament; but, at all events, it deserves the gravest consideration, and my vote as to the Amendment of my right rev. Friend—the effect of which I no not deny will be to put an end to this Bill altogether—will be very considerably influenced by the answer which will be given by my noble and learned Friend (Lord Lyndhurst), or by the noble Lord on the woolsack, to the question I am about to put. I am disposed to vote in favour of the Bill and against the Amendment; but what I want to know is, whether, in the event of the rejection of this Amendment, the noble and learned Lords are prepared to adopt the proviso to which I have alluded?

THE EARL OF ABERDEEN wished to remind their Lordships that, by the law of Scotland, the very check which it was now proposed to introduce into this Bill was enacted. The persons who were proved to have indulged in adulterous intercourse with each other were prohibited from marrying; and he entirely concurred with the right rev. Prelate in thinking that it was matter for grave consideration whether it would not be of advantage to introduce some such prohibition into the law of this country.

LORD LYNDBURST did not rise with any intention of entering into the discussion of the question. He wished, however, to inform their Lordships that such a provision was discussed in Committee, and was only lost because the numbers were equal. For his own part, as he had

supported the introduction of such a provision when the Bill was before the Committee, he should be prepared to support it in the event of it being again proposed.

THE LORD CHANCELLOR said, he did not consider that the Bill would be improved by the introduction of such a provision, because there was experience to show that such a provision contained something radically wrong. It was one of the standing orders of their Lordships' House that no Bill for a divorce should be introduced which did not contain a clause prohibiting the marriage of the persons who had been guilty of the adultery complained of; but there was no one instance in which that clause had not been struck out, because such a clause did not prevent collusion. There were many instances in which such a restriction had been avoided by gross misconduct, for care had been taken that the act of adultery which had been committed should not be discovered to have taken place between the persons who wished to marry. Such a clause, therefore, was most objectionable, and the same objections would apply to the provision now proposed.

LORD CAMPBELL said, he entirely approved of the restriction under consideration, and believed its adoption would prove a very salutary check. He regarded the existence of such a safeguard in Scotland as the principal reason why the facilities for divorce in that country had been found consistent with the preservation of the purity of morals; and he thought it would be dangerous to pass the Bill without such a restriction.

THE BISHOP OF OXFORD said, he did not rise with the intention of addressing their Lordships upon the original question, but he was anxious to say a few words in reference to what had fallen from the noble Lord opposite. He thought that it would be in the recollection of the House that he had never alleged that any canon of the Church laid down the law upon the matter, nor had he denied that marriage in its essence was other than a civil contract. The noble and learned Lord opposite had quoted what he himself looked upon as a great authority—the opinion of the Reformers of the English Church—and he had pointed out that Cranmer was in favour of divorce on account of adultery, as also was the *Reformatio Legum*. Now, the *Reformatio Legum* proposed to allow divorce on account of adultery, but at the

same time, it proposed to allow it for many other causes. If a man were absent from his wife for two years, the *Reformatio Legum* proposed that the wife should be allowed to marry again, and if the husband subsequently returned without being able to give any valid reason for not having communicated with the wife, the second marriage was held to be valid and binding. There was, however, a strong check against collusion, for in such a case the first husband was condemned to banishment or perpetual imprisonment. [The Earl of DERBY—"He would not be so foolish as to come back."] He did not mean to apply an *argumentum ad hominem* to the noble Lord opposite, but what he wished to point out was, that although it was perfectly true that the *Reformatio Legum* proposed to allow divorce in cases of adultery, that provision was, at the same time, accompanied by most stringent provisions against adulterers—namely, the penalty of perpetual imprisonment, and that provision entirely removed the moral objection which he entertained towards the present course of legislation. There was one point which had been advanced with which he could not agree, and that was, that the present law was more unfair to the poor than the altered law would be. By the present system divorce was placed out of the reach of all with very few exceptions, while by the altered law it would be placed within the reach of all who were able to afford it, and it was better, he believed, to allow an opportunity for showing particular exemptions from a universal law than to make a universal law the benefits of which could only be enjoyed by the rich. He believed upon his conscience that the Bill would give no real relief to the poor, but that, on the contrary, it would tend to set class against class, and to relax in English society those stringent rules which had hitherto proved so advantageous.

On Question, their Lordships *divided*:—
Content 43; Not Content 10: Majority 33.

Amendment *negatived*.

THE BISHOP OF OXFORD then moved, to insert at the end of Clause 24 the following words:—

"Provided always that it shall not be lawful for a husband or wife who shall have been found guilty of adultery to intermarry with any woman or man with whom the adultery has been proved to have been committed."

Amendment *agreed to*.

LORD DENMAN, who spoke from the
The Bishop of Oxford

Opposition benches, proposed to insert, between the 15th and 16th Clauses, the following:—

"And further, the said Court may order such divorce in case of desertion, if not assured by evidence that the husband was not at the time of such desertion, or has not since been, cohabiting with another woman."

THE LORD CHANCELLOR could not accede to the Amendment, which he thought would only embarrass the Bill.

Amendment *negatived*.

Amendments made; Bill to be read 3^d To-morrow.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Thursday, July 3, 1856.

MINUTES.] PUBLIC BILLS.—1^o Revenue (Transfer of Charges); Criminal Appropriation of Trust Property.

2^o Commons Inclosure (No. 2).

3^o Metropolis Local Management Act Amendment (No. 2); Turnpike Acts Continuance.

POOR LAW AMENDMENT (No. 2) BILL.

Order for second reading read.

Motion made and Question proposed.

"That the Bill be now read a second time."

SIR GEORGE PECHELL said, in rising to move that the Bill be read a second time that day three months, he had to express his regret on private grounds, that he should be obliged to appear before the House on the present occasion, living, as he did, in the heart of a society in which peace had prevailed for many years, but which was about to be disturbed by the enactment of the measure for which a second reading was asked. In the first place he had to complain of the manner in which the Bill had been brought forward. Bill No. 1 was introduced on the 3rd of April, without any previous intimation being given to those who took a great interest in the question during the years 1844 and 1845. On the 19th of May an attempt was made to read that Bill a second time, the right hon. Gentleman (Mr. Bouverie) saying that as no principle was involved in it, the Bill might be read a second time without discussion. That, however, was objected to, and on the 23rd of May that Bill was discharged, and leave was given to substitute the present Bill for it. After several postponements, the second reading of the present Bill was finally fixed for

that day. He knew not whether the present, like the first Bill, was without any principle, but up to the present moment the House had not heard any statement from the Poor-Law authorities as to the provisions of the measure. The great defect of the Bill, in his opinion, was those clauses which repealed the 22nd of *Geo. III.*, and also that portion of the Poor-Law Act which authorised single parishes to become incorporated under the wise and beneficent Statute called the Gilbert Act. There was also a provision restricting the publicity of the rules, orders, and regulations of the Poor-Law Board to the Clerk of the Peace, whereas the present law required copies of such rules to be furnished to the clerks of the petty sessions. So long as there presided at the head of the Poor-Law Board a person in whom the country could place confidence, it did not much signify whether those rules were promulgated or not; but it was matter of great importance as to the description of person who should so preside over that Board. Great inconvenience would, however, arise from dispensing with the copies of the rules which were at present sent to the clerks of the petty sessions. Again, the chairman and vice-chairman of the Board of Guardians at present appointed the auditor of the district; but by the Bill now before the House the power of appointing the auditor would be transferred to the Poor-Law Board; and the auditor, in addition to his present duties, would also have to undertake all the accounts of those places which had adopted the provisions of the Statute of the 4 & 5 *Will. IV.*, including watching and lighting. What watching and lighting had to do with the Poor-Law Amendment Act he was at a loss to conceive. On the other hand, however, the appointment of registrars, which was now exercised by the Poor-Law Commissioners, was to be transferred to the Board of Guardians. If that were considered an equivalent for taking the appointment of auditor from the Board of Guardians, he certainly did not think it to be an adequate one. It was most important that the appointment of the auditor should rest with the Board of Guardians. But, after all, the great objection to this Bill was its compulsory clauses, by which it was proposed to repeal the Act commonly called the Gilbert Union Act—a wise and beneficent law, and one which had operated most advantageously both for the ratepayers and for the poor in all

those places where its provisions had been adopted. Now, he wished to inquire why those incorporated parishes should be dissolved? No abuses had been shown to exist in them, nor any inconvenience to have arisen from them. He, therefore, hoped the House would pause before it sanctioned the measure of the right hon. Gentleman the President of the Poor-Law Board. When the Poor-Law Bill was first introduced in 1834, it was proved that the only parishes in England which were quiet were those which had been incorporated under the Gilbert Act. The population of those places then amounted to about 500,000; and Lord Althorp wisely inserted in the Act of 1834 a clause excepting from its operation those Gilbert incorporations, and also those parishes and towns which were governed by local acts. The Gilbert Act was passed in 1782. It empowered parishes to unite for the purpose, among other things, of administering relief to the poor. A great many parishes adopted the provisions of the Act. It was true that on the passing of the Bill of 1834 many of those incorporations were scattered and broken up; but that, he believed, was in consequence of the statements made to the different Gilbert Unions by the emissaries of those who advocated the Poor-Law Bill of 1834. He knew that many of those parishes which were then deluded by those representations were anxious to return and be again placed under the provisions of the 22 *Geo. III.* They had ever since regretted having yielded to the pressure then put upon them, and having listened to the misrepresentations then made to them in order to induce them to place themselves in the hands of the Poor-Law Commissioners. Great disgust was at the time created throughout the country at the manner in which the Poor-Law Commissioners proceeded to form their Unions, and especially at the course they adopted in 1835 and 1836 in endeavouring to persuade the remaining Gilbert incorporations to surrender. The inspectors who were sent into the different parts of the country resorted to the most unjustifiable means to effect their object, and they from time to time reported that everything was working well in the Poor-Law Unions; but that the Gilbert incorporations were mischievous examples and ought to be dissolved. If the right hon. Gentleman (Mr. Bouverie) believed there was any defect in the Gilbert Act, why did he not propose to amend it, instead of repeal-

ing the Act altogether. The objection brought against the Gilbert Unions by the Commissioners had, in almost every instance, been overruled by the evidence taken before a Committee of the House of Commons; and that Committee had decided that it was not expedient that the Gilbert Unions should be abolished, but it was, upon the Report of that Committee, adopted by the casting vote of the Chairman, that the present Bill was founded. If the charges brought against the Gilbert Unions were persisted in, he would fortify himself with his strong box, containing every case that had occurred since the year 1844, in order to show the blame that ought to be attached to the proceedings of the Commissioners. As regarded the feeling out of doors on the subject, there had been ten petitions for the Bill and 381 against it—while the number of petitioners in the first case was 448, and in the second 2,471. After reading several passages from these petitions, the hon. and gallant Member concluded by moving that the Bill be read a second time that day three months.

VISCOUNT GALWAY said, that he did not entirely dissent to the Bill, yet he entertained some serious objections to it, and for more reasons than one he would second the Amendment. He would appeal to the right hon. Gentleman the President of the Poor-Law Board as to whether he did not think it advisable, considering the lateness of the Session, to withdraw the Bill. It must be recollected that the right hon. Gentleman had not even made a statement in favour of the measure; and it should also be borne in mind that it was not the fault of the House that the Bill was not more advanced. The right hon. Gentleman had partly to blame himself for the delay. It was not the first Bill he had introduced on the subject. If it was a matter of urgent necessity, the clauses being of such importance, they ought to have been well considered in the first instance, and have been brought forward in a state fit to pass the House. His great objection, however, to the Bill was, it proposed doing away with the Gilbert Unions. No misconduct whatever had been alleged against them; no proof of any want of out-door relief, or of an insufficiency of in-door relief had been adduced, while it certainly was the fact that nine-tenths of the ratepayers of those Unions were adverse to the proposed Bill. If the right hon. Gentleman had the power

of doing away with the Gilbert Unions, he could not see any reason why he should not equally do away with the Unions under local Acts. He must confess he was utterly at a loss to know—and the right hon. Gentleman had not as yet made any statement to inform him on the subject—why it was considered necessary to bring the parishes comprising the Gilbert Unions under the operation of the Poor-Law Board. So far as the ratepayers residing in those Unions were concerned, they had the strongest objection to the step, on the ground of the large expenditure that would have to be incurred for erecting workhouses and organising and establishing a new parochial system. With regard to transferring the appointment of auditor from the chairman and vice-chairman of the Boards of Guardians to the Poor-Law Board, he thought the former were as capable of making a good appointment as the latter. In reference to extra-parochial places, it was no more than fair that they should be made to provide for their own poor, and that the burden of doing so should not be cast upon the adjacent parishes; but he did not think the best course would be to attach those extra-parochial places to the parishes adjoining. That was, however, the least objectionable feature of the Bill; but, taken as a whole, the measure seemed to him to be so unnecessary, whilst at the same time it went to extend the principle of centralisation, that he had no hesitation in seconding the Amendment that the Bill be read a second time that day three months.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

Question proposed, "That the word 'now' stand part of the Question."

MR. BOUVERIE said, he would not follow the example which had been set by his hon. and gallant Friend (Sir G. Pechell), for he must say that never since he had a seat in that House had he heard a speech in which so much was said that was so little to the purpose. The fact was, there was nothing in the speech of his hon. and gallant Friend that required an answer; he would therefore at once address a few remarks to the House in support of the Bill. The noble Lord opposite (Lord Galway) had alluded to the appointment of auditors, and its transfer to the Poor-Law Board. The House must understand that at present the auditor was

Sir George Pechell

appointed by the chairmen and vice-chairmen of the Boards of Guardians of the district to be the auditor of that district. That was an arrangement made in substitution of the one by which the Board of Guardians of each Union appointed their own auditor and paid him out of their own funds. Subsequently it was arranged that the auditors should be paid entirely by the public out of the general funds of the country, and a vote was annually taken for that purpose. He could not understand upon what principle it could be contended that the chairman and vice-chairman of the Board of Guardians should have the appointment of the auditors. In 1838 it was a distinct recommendation of a Committee of that House that the auditors should be appointed by the Poor-Law Board. Subsequently to that the Commissioners appointed by the Treasury to examine the state of the public offices investigated the subject and afterwards recommended that the auditors should be appointed in the way proposed by the Bill now under consideration. It was important that the auditors should be absolutely independent of the parties whose accounts they audited, that their whole time should be devoted to the discharge of their duties, and that their districts should be enlarged. In point of fact, they were officers subject to the control of the central authorities, and appointed merely for the purpose of checking and controlling the expenditure of the local rates. If they ought to be appointed locally at all, the appointment ought not to be by the Boards of Guardians, but by the ratepayers. It was preposterous that the Board of Guardians should appoint an auditor to audit their own accounts. The auditor's duty was to act on the part of the ratepayers as a check on the Guardians, and to see that the rates were properly applied. Besides these general objections, he did not think the result of the present system of auditing the accounts was of a satisfactory nature. Many of those officers were efficient, but many were not. As an instance of the necessity which existed for altering the system of appointing auditors, he might mention that not very long since a chairman of a Board of Guardians had actually become a candidate for the office of auditor of the accounts of his own Board, and had voted for himself. The auditors should be much fewer in number, their whole time should be devoted to their duties, and their appointment should be left in

the hands of the Poor-Law Board. The animosity of the hon. and gallant Member for Brighton against the Bill was excited by the clauses which would effect the abolition of the Gilbert Unions. The question the House had to consider was this:—As the system of the Poor-Law administration was carried on in ninety-nine instances out of every hundred by Boards of Guardians administering relief under the provisions of the Poor-Law Amendment Act, was it on the whole a sound and beneficial system for the ratepayers, and also for the poor themselves, or was the administration adopted by the Gilbert Unions to be preferred, where the parties acted without any system or any law, and did just as they pleased? It was on the part of the poor who were the proper objects of relief that he urged it was time those Unions should be dissolved. There were only fourteen Gilbert Unions throughout the kingdom, the total population of which was 174,000, while the total population under the ordinary Poor-Law administration was 17,000,000. He should be indifferent about those small local administrations if they were carried on properly, but his complaint against the Gilbert Unions was that as far as the benefit of the poor was concerned they were not properly conducted. As regarded the education of the children of the poor, to care for which was a very important part of the duty of those who managed the poor in these Unions, it was entirely neglected in almost every one of them; and where education was attempted to be given, it was next to nothing in amount, and what there was of it was miserably bad. In fact, in every material respect in which the law for the relief of the poor ought to be efficiently administered, the Gilbert Unions were greatly defective, and he thought it was high time to get rid of them. Next, with regard to the provisions of the Bill respecting extra-parochial places. There were nearly 500 of those places in England and Wales—some small in extent, some with no population, some of considerable extent, and some with a considerable population. The population of those 500 extra-parochial places amounted to more than 30,000. In the whole of them there was absolutely no mode of relieving the poor. The poor had no resource when in a state of destitution, and they were in those places as much without relief—as much without a poor-law as if the statute

of Elizabeth had never been passed. It was a disgrace to the country that such a state of things should continue a day longer than was necessary. He had found many hon. Members labouring under the impression that those persons could be relieved from the rates of the adjoining parishes. Now that certainly was not the fact. The rates of the adjoining parishes could not be legally so applied. He had numerous applications from parishes near extra-parochial places, containing accounts of the greatest hardships and suffering endured by the poor of those extra-parochial places, and asking whether there were any means of relieving those people besides by private charity. [The right hon. Gentleman here read a letter which had been addressed by a bench of Magistrates to the Poor-Law Board, in which they stated that they had little doubt the death of a certain pauper, living in an extra-parochial place, had been accelerated, if not caused, by a want of nourishment during her confinement, which she would have received in case the relieving officer of the Union had been at liberty to give it.] With reference to the case of pauper lunatics in such places there was no means of providing for them. The Lunacy Acts applied to parishes only, and the relieving officer had no power to deal with a lunatic belonging to an extra-parochial place, unless the lunatic was first removed into some parish. He confidently appealed to the House as to whether that was a state of things which ought to continue. For his own part, he did not like to take upon himself the responsibility of allowing cases like the one to which he had referred to be continually occurring without endeavouring to provide a remedy. He would therefore ask the House to allow so much of the Bill, at least, to pass as related to these extra-parochial places. He would admit that as regarded some of the other provisions of the Bill, they perhaps were open to objection; and if any opposition should be made to them, he was prepared, considering that the period of the Session was not favourable to him, to postpone those portions of the Bill. But as the hon. and gallant Gentleman (Sir G. Pechell) as well as every other hon. Member, must be friendly to some provision being made to give relief to the destitute poor, he did hope that they would not oppose that part of the measure which applied to extra-parochial places. Therefore, if the House would assent to the second reading of the

Mr. Bouverie

Bill, he would undertake, when the Bill went into Committee, to strike out everything except that which related to the relief of poor in extra-parochial places.

SIR JOHN TROLLOPE said, that the gentleman to whom the right hon. President of the Poor-Law Board (Mr. Bouverie) had referred, as having nominated himself for the office of auditor of a poor-law union, had certainly been the chairman of a board of guardians for several years; but he should have thought that that would have constituted a qualification rather than the reverse. [Mr. BOUVERIE: He was the chairman, and he voted for himself.] So most other gentlemen did under similar circumstances. At all events, in the instance referred to, the gentleman was well prepared for the discharge of the duties of his office, for, in addition to being chairman of the board of guardians he was a barrister of considerable practice on the Midland Circuit. He might further state that he had resigned his chairmanship, and was now no longer in connection with the Board. With regard to that portion of the Bill which related to extra-parochial places, the peculiar hardships of the present system, both as to the occupiers of property and the poor themselves, were matters which had come under his own personal observation, and in his county advantage had recently been taken of a private Bill for the purpose of parochialising upwards of 14,000 acres of extra-parochial property rather than wait for any general measure on the subject. The district lay between two Unions, but paid no rates to either; it afforded, however, a large amount of industrial occupation to the poor residents within the Unions, who, when they became sick or required relief, were chargeable, not to the places where they were employed, but to the Union, which derived no benefit from their labour. He thought, therefore, that the right hon. Gentleman, finding that he could not carry the whole of his Bill, had wisely determined on endeavouring to carry that portion of it which the House would agree to. With respect to the Gilbert Unions, it was his opinion that they had failed in their object, and become effete. The Bill, in its present shape, referred to a great many subjects. He (Sir J. Trollope) should be excused, therefore, if he drew the right hon. Gentleman's attention to another question of a kindred nature—he meant that of medical relief. Than the present mode of granting medical relief through

out the country nothing, he apprehended, could be more unsatisfactory. It was his opinion, however, that medical men had themselves to blame for this to a great extent; for under the pressure of excessive competition they had been induced, at the outset of the administration of the present poor law to enter into contracts upon an inadequate scale. Indeed, from his own personal knowledge, he could take upon himself to say that the cost of bare medicines, where given in sufficient quantities, would more than absorb the whole salary, and leave the medical man no remuneration whatever for his time, the exercise of his skill, the expense of travelling, and other charges incidental to his profession. The amount these gentlemen asked for in their petitions was 5s. for attendance, 1s. a mile for travelling expenses; and in his (Sir J. Trollope's) opinion that would be by no means an exorbitant allowance. There was besides the greatest discrepancy in the payment of their officers. Pauper cases were always cases of extremity, and the pauper did not call in a medical man till he was forced. In consequence, the medicines he required were such as could not, as he had just stated, be given under the poor-law contracts. He hoped that the right hon. Gentleman would give his attention to the subject. They were doing much in other ways to improve the sanitary condition of the great towns. It was of as much importance to the public health to attend thus to the health of the poor as to drain the towns. It might, perhaps, cost £500,000 to put the present system into proper force, and would be at least as useful as would be the expenditure of £3,000,000 in draining our towns. One-half of the expense would be borne by the State, and the ratepayers throughout the country surely would not grudge their part for a purpose so necessary for the health of the community. He approved of the Bill, and only regretted that so much would be struck out of it as had been promised by the right hon. Gentleman.

MR. CARDWELL said, he wished to say one word with respect to extra-parochial places. The Bill would make those extra-parochial places parishes within themselves. That might be done, and yet no great result attained. It would be, he apprehended, no remedy. They would continue to employ, as they did at present, persons living in the adjoining parishes. In the city of Oxford, Christ Church would by the Bill remain a parish by itself, and

yet the property it contained, representing a value of £4,000 a year, would not be called upon to contribute one penny towards a poor rate by reason of there being no poor. By the first Bill of the right hon. Gentleman that would not have been the case. The first clause of that Bill enacted that such extra-parochial place should, for the purposes of the assessment of the poor rate, be deemed to be a part of the parish by which it was surrounded, or of one of the adjoining parishes. He understood, however, that that clause would have given rise to considerable opposition. The present Bill altered that clause to a much greater extent than was necessary, in his opinion, to meet the justice of the case, because Clause 4 still left it optional to an extra-parochial place whether it should be joined to any parish or not. What, however, he wished to suggest was, whether it might not be possible so to arrange the fourth clause as not to leave it optional with the residents, but to make it, as a general rule, compulsory, and then afterwards to adapt that rule to the circumstances of each particular case. It would be almost futile to pass a Bill which was to contain nothing but the clauses relating to extra-parochial places, unless they made the measure in that respect perfect.

MR. HENLEY said, he understood that all the provisions of the Bill were to go overboard, except the extra-parochial clauses. That being so, he confessed that, even in regard to that part of the Bill, he was not disposed to vote for the second reading; and he would shortly state the reason. The right hon. Gentleman (Mr. Bouverie) said that those clauses related to 500 places, and to a population of 30,000. Now, it would be very difficult to say how great was the variety of circumstances existing in those places; and it would be equally difficult to devise any general measure that should do equal justice to all. He had not any evidence before him to enable him to come to any conclusion on the subject; and it was impossible that a matter of such importance, and at that late period of the Session, could fairly be gone into. Another subject closely analogous to this had been postponed—he meant the rating of mines. He would suggest to the right hon. Gentleman whether it would not be a wiser course for him not to go into the matter now, but in the beginning of another Session to have a Committee to inquire into all these subjects, and obtain the fullest

information upon them. The right hon. Gentleman would then be able to legislate in a manner much more satisfactory to the country, and would also be able to do more justice both to the parties to be relieved and to the people whose property would be most materially affected by it. He congratulated the hon. and gallant Admiral (Sir G. Pechell) on the successful effect of his very heavy broadside on the right hon. Gentleman. He did not like the change in the mode of electing the auditors, and he did not approve giving the Government patronage over to the civil power in that way. He should, therefore, oppose the second reading of the Bill.

MR. BARROW said, he very much objected to the House proceeding with a measure of legislation which must necessarily be altered next Session. He did not think the present Bill would answer the object it was intended to effect. The time had arrived when it was impossible to avoid a revision and an alteration of the original Poor Law Act; what was called the common fund had become an enormous charge upon many parishes. There were large districts of land in his own union which did not contribute a single farthing: and there were whole parishes that had entirely dropped out of the contribution.

MR. WALTER said, he merely rose for the purpose of joining his appeal with that of the right hon. Gentleman opposite (Mr. Henley) to the President of the Poor-Law Commission, in the hope that the right hon. Gentleman would be induced to complete the act of grace which he had begun, in withdrawing the clauses relating to the Gilbert Unions, by putting a good face on the matter and withdrawing the whole measure. It was from no spirit of opposition to the object which the right hon. Gentleman had at heart—namely, the rating of extra-parochial places—that he made this suggestion. It was, undoubtedly, an anomaly that such places should exist, and he should have great pleasure at any future time in assisting the right hon. Gentleman in his endeavours to attain the object he was anxious to accomplish. But there was great force in the objection which had been made by the right hon. Gentleman the Member for the City of Oxford (Mr. Cardwell) that there were many places where there were no poor, and, therefore, to give a power of raising rates in those places was a mere mockery and of no substantial advantage.

Mr. Henley

[The hon. Member was proceeding with his observations, when he was reminded by Mr. SPEAKER that the time for the adjournment of the House had arrived.]

THE EAST INDIA COMPANY—FRENCH SUFFERERS BY THE INUNDATIONS—QUESTION.

MR. OTWAY said, he would beg to ask the right hon. Gentleman the President of the Board of Control whether the sum of £500, which had been subscribed by the Chairman of the East India Company for the relief of the sufferers by the inundations in France, was to be charged on the revenues of India; and whether the subscription of the East India Company, or the sums expended by them in public entertainments, were limited by any fixed regulation, and were subject to the control of Parliament?

MR. VERNON SMITH said, the charge must be made on the revenues of the Company, for there was no other source whence to take it; but it was not true to say the Chairman subscribed the amount—it should be the Chairman on behalf of the Company. The Company had been in the habit of granting various charitable donations to different objects ever since their foundation, but by the Act 55 Geo. III., they could not go beyond £600 without its being first submitted to Parliament. In this instance the grant was within that sum, and, consequently, there was no necessity for submitting it to Parliament; but it was submitted to the Board of Control, and it had the sanction of that Board. With regard to the other question, the hon. Member was probably aware that the Company gave entertainments to the Governors General and other public officers, and though the sums expended were not subject to any fixed regulation, yet they were submitted to the Board of Control, and the yearly expenditure for that purpose was pretty nearly the same. No Estimates were submitted to Parliament, and, consequently, no Votes were taken.

CROWN LANDS AND CHURCH EXTENSION—QUESTION.

MR. THORNELY said, he wished to ask whether the Vote of £10,000, proposed to be paid out of the Crown land revenues for new churches, would be taken this Session?

MR. WILSON said, it would be deferred until next Session.

RETURN OF THE TROOPS FROM THE
CRIMEA—QUESTION.

COLONEL FRENCH said, he wished to ask a question of the First Lord of the Admiralty, who stated, some time ago, that all the troops would have left the Crimea by the 30th of June. He wanted to know if that was likely to be the case?

SIR CHARLES WOOD said, the third battalion of the Grenadier Guards were coming home by the *Princess Royal*. Before he left the Admiralty a telegraphic despatch was received that she had made her signal. The whole of the forces had not yet left the Crimea, but a portion of them were engaged in taking up the railway. Every other man was brought away. Ample transport was there long before the 30th June, and was now waiting till the troops were ready to come away.

ENTRY OF THE GUARDS INTO LONDON—
QUESTION.

SIR JOHN SHELLEY said, he should be glad if the noble Lord at the head of the Government would afford some information to the House as to the manner in which the Guards would enter London. It had been stated in the papers that the route had been determined upon—namely, that the Guards would alight at Nine Elms, that they were to pass through some of the Pimlico Squares, along Victoria Street, up Constitution Hill, and into the Park. He trusted that the noble Lord would afford the inhabitants of London the opportunity of giving the Guards a cordial welcome. He thought it would be well if the same route were followed as was taken on the occasion of the visit of the Emperor of the French to this country—namely, over Westminster Bridge, along Parliament Street, Whitehall, Pall Mall, Piccadilly, and thus into the Park.

VISCOUNT PALMERSTON said, he believed the precise route the Guards were to take was not yet fixed upon. They would come from Aldershot to the South-Western Railway, and, of course, alight at the station. They would pass under review by Her Majesty at Buckingham Palace, and then proceed to the Park. The immediate route, however, had not yet been determined upon.

SIR JOHN SHELLEY said, that as the inhabitants of London were very anxious about the matter, perhaps his Lordship would have no objection to name the actual day.

VISCOUNT PALMERSTON said, that

part of the Guards had only just arrived at Gosport. They would go to Aldershot, in the first instance, and thence would proceed to London. It was impossible at present to say on what day they would arrive in London, but due notice would be given.

OUR RELATIONS WITH THE UNITED
STATES—QUESTION.

MR. H. BAILLIE said, he wished to ask whether Mr. Dallas had represented to Her Majesty's Government that he had full powers to settle the Central American dispute, or had he only the same powers that were entrusted to Mr. Buchanan?

VISCOUNT PALMERSTON: I understand that Mr. Dallas has full powers to discuss with Her Majesty's Government all the questions which have arisen with respect to the affairs of Central America, and that he has powers which Mr. Buchanan had not; as I understood from Mr. Buchanan that he had no instructions upon these questions.

WILLS AND ADMINISTRATIONS BILL—
QUESTION.

MR. MALINS said, he wished to ask his hon. and learned Friend the Solicitor General whether it was his intention to proceed with the Bill that night? In conversation with his hon. and learned Friend, he (Mr. Malins) had asked the question, and the reply was that it would not come on that night, and that also was understood by his hon. and learned Friend the Member for East Suffolk (Sir F. Kelly), who had left London to attend a cattle show—[*Laughter.*]—or agricultural meeting. Hon. Members must be aware that his hon. and learned Friend had agricultural duties to attend to, he being a county Member. He (Mr. Malins) had relied upon the answer given him, and had taken for granted the Bill would not come on that night, but to his great surprise he found, on entering the House, that it was the intention of his hon. and learned Friend opposite to proceed with it. He (Mr. Malins) had come down to the House without his papers, and the facts which he had prepared, and he begged, therefore, to ask his hon. and learned Friend whether he intended to persevere?

THE SOLICITOR GENERAL said, he was exceedingly sorry that any communication made by him to his hon. and learned Friend should have caused what he would not call a slanderous imputation to be made upon the hon. and learned Member

for East Suffolk, who, it appeared, was absent at a cattle show instead of being present in that House. What he (the Solicitor General) had said to his hon. and learned Friend on Tuesday was, that if the debate in which the House was then engaged terminated that evening, the Wills and Administrations Bill would undoubtedly be taken that night. He regretted that some misapprehension had arisen as to what he did say, but his hon. and learned Friend could not say that he was unprepared to discuss the provisions of the Bill when he was generally so well informed on every question before the House.

MR. MALINS said, if his hon. and learned Friend persisted in going on that night, he should move that the Bill be committed that day three months.

On the question that the House resolve itself into a Committee of Supply,

CROWN LANDS AND CHURCH EXTENSION.

MR. W. WILLIAMS said, the hon. Gentleman the Secretary of the Treasury had stated in answer to a question put to him by the hon. Member for Wolverhampton (Mr. Thornely) that the vote of £10,000 out of the Crown lands for the purposes of Church extension was to be left over for the present Session. He (Mr. Williams) had never before known such an attempt made to get £10,000 by misrepresentation. It was to be granted out of the Crown lands for the purpose of building churches. Now, all the Crown property had been surrendered to the public, and there was now no Crown property available for churches, or any such purposes. He thought it would be monstrous to bring forward a Vote of this kind to build churches in connection with the Establishment, when the Church enjoyed property amounting to millions per annum. They should take example from the Dissenters, and provide for the building of their own churches out of their own pockets. In the district he resided in they had built three or four new churches at their own expense, and had taxed themselves not only to pay for them but also to keep them up. He was certain that there was no other source than the public taxes from which the Vote could be made, and it was nothing short of a misrepresentation to say that it was to come out of the Church property.

THE CHANCELLOR OF THE EXCHEQUER said, it was not the intention of Her Majesty's Government to propose that

The Solicitor General

Vote this Session, and he should, therefore, be wasting the time of the House if, under such circumstances, he entered upon its discussion. The hon. Member for Lambeth was quite mistaken as to the circumstances of the Vote. When the proper time arrived, the circumstances would be laid fully before the House.

MR. HADFIELD said, that he suspected, notwithstanding the short notice that had been given, that this Vote would have been persevered in, had it not been for the question of his hon. Friend (Mr. W. Williams), and he cautioned the House not to be taken by surprise at a future day. £1,500,000 had already been expended on this subject; for the last thirty-eight years a sum of £40,000 had been devoted to it per annum. The Government should avow what their intentions really were. Let the House, however, beware how it commenced a series of grants for church-building, which would lead to disputes of which no man could see the result.

EDUCATION AT SANDHURST—QUESTION.

MR. RICH said, he would beg to ask the hon. Under Secretary for War if it was the intention of the Government to continue the present charge of £125 a year for the education of the sons of civilians at the Royal Military College, when, as appeared by the Supplementary Army Estimate, the total cost of a cadet did not exceed £75 a year. The Military College was constituted under a Royal Warrant which specially provided a gratuitous education for orphans of the officers of the army, and education at about half cost for sons of officers on service, whilst a third-rate was provided for the sons of civilians, nobility, and gentry, who were to pay such a sum for the expenses of their education, board, and clothing, as should be from time to time determined by a Board of Commissioners acting under that warrant. Before the Committee which sat last year, it was stated in evidence that the Commissioners who had power to modify the rate of educational charges had no power to set aside the provisions of the warrant in the above respect. The warrant had been strictly adhered to during the war, in the course of which there had been educated 156 orphan sons of officers, 100 sons of officers, and 156 sons of civilians receiving their education at the expense of their parents. Under this system the college had prospered, and had sent out many

young men who had distinguished themselves. But since peace had been established, the Commissioners, disregarding the warrant under which they were acting, thought fit nearly to double the sum for the sons of civilians, by charging them £125 a year, or, in many cases, with extras, a sum nearly amounting to £150 a year. The price for the sons of officers had been raised by degrees to £80, and the orphans of officers had to pay, first £20, then £30, and afterwards £40 a year. The excuse for this was, that it was desirable to make the school self-supporting; but the result was that the surplus, amounting to more than £7,000 a year, was misapplied, contrary to the spirit of the Royal Warrant under which the school had been founded, in the first place to the payment of nearly £2,000 a year in money and advantages to a governor, a general officer, who had no influence whatever upon the education of the pupils; in the second place, to the expenditure of £5,300 a year upon the education of senior officers who had been in the army, to fit them for the staff, to which probably they might never be appointed. That, with a balance on four years of £5,000, or nearly £1,300 a year, made a sum of £8,000 or £9,000 a year—about one-half the cost of the whole establishment, which came out of the pockets of the civilians who sent their sons to the school to qualify them for the army. The result was, that the great bulk of the officers of the line were deprived of the advantages of a preliminary military education; the increased cost at this school, £150 a year, being beyond the means of their parents. He therefore wished to call the attention of the Government to the subject, and hoped it would be considered with a view to its amendment. He would also observe, that it would be very convenient if the holidays at the Military College could be made in some degree coincident with those at the public schools, in order that brothers who might happen to be at both might have opportunities of meeting.

ARMY PRIZE MONEY—QUESTION.

COLONEL DUNNE said, he wished to inquire the intentions of the Government as to advising Her Majesty to grant compensation to the army engaged in the siege, for stores, &c., taken in Sebastopol. He understood that, after previous wars in which this country had been engaged, it had been the custom for the then Chan-

cellor of the Exchequer to propose that a sum should be granted to the army by way of compensation for prize-money; and at the end of the last war, two sums of £500,000 and £800,000 had been voted for that purpose. In India, also, almost every army had received prize-money. It had not always been very wisely distributed, as, for instance, in the case of the Deccan prize-money, but, at all events, it had been voted; and, among other instances, a sum of £150,000 was granted for the troops who were present at the capture of Java, where a considerable quantity of stores was taken. Now, at the taking of Sebastopol, an Anglo-French Committee was formed for the purpose of dividing the stores found in the town, and this into two sub-committees, one of which took the eastern and the other the western half of the place. In the western town, or Karabelnaia quarter alone, he (Colonel Dunne) believed he was right in stating, they found 2,089 guns, 1,770 of which were serviceable, and among them were several brass guns. Of course, iron guns would not be so useful to us, as the calibre of our guns was different; but brass guns were always valuable. They found also 257,000 solid shot, 60,000 shells, 30,000 grapeshot, and 1,200,000 or 1,500,000 live shells. There were also 417,000 lb. of powder, and 434,000 rounds of small-arm ammunition. A large stock of provisions was also found; but, although they were condemned as food by the English and French Commission, they were sent to Eupatoria, and there made use of. He thought the army had some right to prize-money for the ships which would have been taken if the war had continued. He would also observe that the troops had been put to extraordinary expenses during the late war—from the loss of horses in the passage from Varna to the Crimea, and other causes; he, therefore, hoped the Government would give some equivalent for the stores that had been taken by the army. He was aware that there was a theory abroad that prize-money belonged to the Crown. He did not know how far that might be legal. In the times when the general and his troops divided their spoils at the drum-head they had not to go to the office of some prize-master, who generally robbed them of what they had won. That was the course pursued in the case of the celebrated Koh-i-noor, and some other recent instances; he would, therefore, ask whether the Government

intended to advise the Crown to give an equivalent? He had stated the account of the Karabelnaia suburb, but the French prize was even larger than the English. He might add, that he was far from grudging any honour done to the household troops—they had fought bravely at Inkerman; but, as the destination of the line would probably be the West Indies instead of London, he thought some reward might be bestowed on them.

VISCOUNT PALMERSTON; Sir, there is no doubt that, in former wars, when property of great value was taken from the enemy, which belonged to the Crown, an equivalent in money was distributed to the troops engaged in its capture. But the property taken in this instance is so extremely small, that if divided among the troops it will not amount to more than 2s. 6d. for each officer and 6d. for each man. These sums are so small, that I fear they would be considered rather a mockery than a reward;—and we are, therefore, not prepared to advise the Crown to make a grant of so small a sum of money.

PROMOTION IN THE ENGINEERS— QUESTION.

CAPTAIN LEICESTER VERNON said, he rose to ask the hon. Under-Secretary for War whether it was intended as a rule of promotion in the Scientific Corps of the army, that no subaltern officer, however he might have distinguished himself in that rank, could be advanced to a brevet majority until he should have again subsequently distinguished himself in the rank of captain? and to call attention to the inexpediency of such a regulation. No such rule as that prevailed in the line, in which branch of the service a lieutenant or ensign who distinguished himself might at once be promoted to substantive rank, either in his own or in some other regiment. The operation of the rule would prevent the Engineer officers who had distinguished themselves before Sebastopol from receiving that promotion to which they were fairly entitled.

MR. FREDERICK PEEL said, in reply to the question respecting Sandhurst College, which had been put by the hon. Member for Richmond (Mr. Rich), he must state that the Estimate laid on the table only covered nine months of the year, and favoured the inference that the cost of each cadet was £100, and not £75 a year, as the hon. Member for

Colonel Dunne

Richmond seemed to suppose. It was possible that £125 per annum was in excess of the sum actually incurred in the education of a cadet, and he was not aware that there was any intention to lessen the charge; but, if it could be shown that the receipts of the college were in excess of the expenditure, it might be well to consider the propriety of effecting a proportionate reduction in the sums payable by the pupils. In answer to the question of the hon. and gallant Member for Chatham (Captain L. Vernon), it should be stated that in no branch of the service was there a rule preventing an officer who had distinguished himself as a subaltern from receiving, after he had been made a captain, a step of military rank in recognition of services rendered before he had been promoted to his captaincy. He had himself known a case where a subaltern of artillery had, on becoming a captain, been rewarded with brevet rank for his services while a subaltern. It was not desirable, however, that there should be any positive regulation on the subject, for, if there were, services rendered many years previously might be thought to constitute a claim to brevet promotion. It was his belief that the scientific corps was in no worse position as regarded the matter than any other branch of the service.

MR. H. BAILLIE said, he thought the answer of the hon. Under Secretary for War, with regard to Sandhurst College, was very unsatisfactory. It was a notorious fact that the sons of civilians were charged double the amount necessary for educating them, for they could not be maintained at the college for less than £200 a year. That large sum practically excluded the sons of men who were not in very affluent circumstances; and if additional charges were necessary to maintain the college, they should be borne by the State, and not charged to the sons of civilians, in order that the sons of officers might be educated almost gratuitously. He hoped the subject would be taken into consideration by the Government, as it was one of great importance, and he was sure it would not be satisfactory to the public if the college were maintained on its present footing.

SUPPLY—MISCELLANEOUS ESTIMATES.

House in Committee.

(1). £6,912, British Embassy Houses abroad.

MR. WISE observed, that though the

Vote had been assented to by the Committee to which it had been referred, and of which he was a member, he still regarded it as an unsatisfactory one. Fortunately there was little likelihood that the circumstances which had given rise to it would occur again. There had been for a long series of years a profligate expenditure on account of the Embassy House at Paris, but the matter had been thoroughly sifted by the Committee up stairs, and there was reason to hope that the President of the Board of Works would exercise such control and supervision as would prevent the recurrence of similar evils for the future. The Committee had, therefore, looked more to the future than the past, and in their investigation sought to prevent abuses, rather than inculcate the agents of the past. The amount claimed by Mr. Albano, £3,217, for superintending the expenditure of £11,763, was very large; but his presence being required to counteract the systematic imposition which had previously prevailed, the charges were such as he was fairly and professionally entitled to make, and had been sanctioned by Lord Cowley, Lord Clarendon, and by the Board of Works. Mr. Albano had to contend with many difficulties, and with the greatest opposition from the previous Clerk of the Works, and even from the Ambassador's own establishment, one of whom had been permitted to contract for the fuel used at the Embassy, but whose account was reduced from 1,942 francs to 1,458. The valuable plate, which cost several thousand pounds, had been allowed to fall into a neglected state, and upwards of £200 was required to replace what was missing or useless. Mr. Albano, by his supervision, reduced accounts amounting to £8,513 to £6,858, and put a stop to the system of overcharging. Whilst he did justice to Mr. Albano, he must condemn the system which had been pursued by the Board of Works. No proper estimate had been made, money had been paid on account to the architect, and when the expenses had been incurred, Parliament was applied to. He hoped, however, that such irregularities would not occur again. What had taken place with reference to this Embassy, appeared a mystery. In 1815 the Government purchased the house, gardens, stables, and furniture for £36,000. In 1825-6, Messrs. Wyatt and Smirke superintended an outlay of £25,000. In 1843, £8,320 were voted; in 1844, £3,892; in 1853-4,

£9,213; and this year £5,078, was required. Besides these sums, an average amount of £1,000 had been expended every year, making a total of £127,503. In 1850, Mr. Burton visited the house, and was of opinion that dilapidation did not exist, and that the premises appeared in a state not unworthy the character of the country; and yet in 1852, Mr. Albano called for £11,763, which, in addition to £3,217 claimed by the architect, makes £14,980 expended within the last three years. And yet, after this outlay, what was the statement made up stairs a few days ago. In reply to questions put to Mr. Albano, he stated that the structure was in such a state that £20,000 would not suffice to put it in proper order; that the timber work was of a most rotten and defective construction; that the doors and windows were rotten, and that there was not a floor upon which he could reckon. This condition of affairs was hardly to be wondered at, when it was considered how little care was bestowed upon the preservation of this species of public property. A striking example of this was presented in the fact, that after the departure of the last Ambassador, the private property of that nobleman was sold at a public auction, which was allowed to be held in the State apartments of the Embassy House, while the costly carpets and satin sofas and chairs were left wholly unprotected from the damage consequent upon an influx of the populace of Paris. The architect found the rooms dirty, the carpets extremely damaged, and stated that he had reported upon the auction as one of the causes of the mischief that ought not to have been allowed. He (Mr. Wise) thought what had occurred in this respect ought to be a lesson to the Government not to purchase Embassy Houses on the Continent. It would be better to make an allowance to the Ambassador of even £2,000 a year extra for a house, than to continue such wasteful expenditure and to incur such uncertain expenses. A portion of this Vote was for the decoration of the dining-room as a chapel. During the last three years £1,600 had been paid for moving the chapel from room to room. He thought it was inconvenient and undesirable to have the service at the Embassy, and he regretted that the offer of the late Bishop Lascombe to sell his chapel in the Rue d'Aguesseau had not been accepted. For one year's annuity of £1,000, the Government would have

obtained a chapel that had cost £10,000. The charges incurred for the Embassy House at Madrid offered another instance of the glaring defect of the system that had been pursued at the Board of Works. In 1848 the Government took a lease of an old house for twenty years, and spent £3,000 upon repairs. The rent was £400 a year, but charges were perpetually arising, and Mr. Albano had been twice to Madrid, so that no less a sum than £756 had been paid to that gentleman for travelling expenses and professional allowances, incidental to the superintendence of an expenditure of £574 upon a house that was designated as half-built with mud, with sunken foundations, and in such a state that it might come down any day. He really trusted that this system would be reformed, and that an architect receiving four guineas a day would not be sent to Madrid to superintend such works as had been described.

MR. STAFFORD said, he rose to protest against an insinuation attempted to be cast upon the late Sir William Molesworth, when the present estimate was last before the Committee. Although he had differed in politics from the right hon. Baronet, he could not be silent while an injustice was apparently done to his memory. No doubt a vicious system had hitherto been pursued in the Public Works Department; but a careful examination of the matter had convinced him that no blame whatever for that state of things fairly attached to the late Sir William Molesworth.

SIR BENJAMIN HALL said, that on a former occasion he had certainly alluded to the bad system which prevailed in the office, with which he was connected, for years before he held his present situation, and expressed his determination to put an end to that system; but nothing could have been further from his thoughts than the intention to cast any reflection upon the right hon. Baronet who had preceded him in his department. He was now endeavouring to correct the undoubted defects of the system, and hoped to be able next year to present these estimates in a form that would prove satisfactory to the House.

SIR WILLIAM JOLLIFFE was glad to find that the old system was amended.

MR. HENLEY said, that while it was clear from the Report of the Committee that the business of the office under consideration had been conducted in a very unsatisfactory manner, nothing very de-

Mr. Wise

finite had been indicated to the Committee which held out a prospect of the future amendment of the system. It appeared that nobody was responsible for whatever happened to the property at the Embassy Houses; and if the whole of their contents were walked away some fine morning, no person, he apprehended, could be held answerable for the loss. It was somewhat extraordinary that private individuals could have buildings erected in Paris without any of the difficulties encountered by those who acted for our Government; and, indeed, the allegations made on that head implied the prevalence, in that gay capital, of an almost universal system of villany where the expenditure of public money was concerned. He hoped to hear from the right hon. Gentleman the First Commissioner of Works what arrangements were contemplated for the future. He certainly thought it quite unnecessary that an architect of eminence should be sent over to Paris merely to superintend the repair of floors and matters of that kind, which might be effected under the direction of a person of very inferior ability.

SIR BENJAMIN HALL said, that as soon as the Session of Parliament closed, he intended to send to Paris one of the officers attached to his department, who would report to him what repairs were required in the structure of the Ambassador's house, and the only expense with which the country would be saddled would be the travelling expenses of that individual. He also intended to appoint a practical man as resident Clerk of the Works at Paris, who would be able to keep the house in repair with the assistance of tradesmen on the spot, and who would not receive a high salary.

MR. W. WILLIAMS said, he felt sufficient confidence in the right hon. Baronet to believe that under his control an end would be put to the discreditable state of things which had hitherto existed.

ADMIRAL WALCOTT said, he thought the Committee did not look at the architect's expenses fairly. He believed they had been the means of saving money instead of incurring a loss.

Vote agreed to.

(2.) £827, British Protestant Cemetery, Madrid.

MR. WISE observed that this Vote had also been referred to the Select Committee. In 1854, £1,400 had been voted for the purpose of a cemetery, and Mr. Albano had been sent over to Madrid to super-

intend the building of a small lodge and a wall round the cemetery, on the understanding that he should receive £300 as full compensation for his services and travelling expenses. A few days after Mr. Albano arrived at Madrid the revolution broke out, and he was detained there six weeks. The Government, in consideration of the loss that gentleman sustained in his own business in consequence of his prolonged absence from this country, granted him an additional sum of £470; and although, under the circumstances, he (Mr. Wise) did not complain of that arrangement, he thought works of such insignificance might have been effected under the superintendence of some of the *attachés* of the embassy, or of the Consul at Madrid. We had at Madrid a Minister, a Secretary of Legation, several *Attachés*, and a Consul, who had little to do; and surely, if we employed our Minister and consuls in the United States in recruiting, it would not be unreasonable to ask our representative at Madrid to employ some local architect and inspect the building of a wall round the cemetery. The Committee upstairs had assented to this Vote as a fair compensation, but whilst they thought the charges reasonable, they thought it most unreasonable to send a person like Mr. Albano all the way to Madrid, merely to superintend the building of a wall round an acre of ground and of a lodge at the entrance to the cemetery.

Vote agreed to.

(3.) £228,950, Disembodied Militia.

COLONEL NORTH said, it appeared from the Vote now before the Committee that the pay of the permanent staff of the militia was to be considerably reduced, and that the non-commissioned officers who had for the last two or three years been occupying very responsible positions were, as a reward for their services, to receive diminished pay. The pay of these non-commissioned officers had been—for a sergeant-major, 3s. a day; quartermaster sergeant, 2s. 6d.; colour sergeant, 2s. 5d.; sergeant, 1s. 10d. It appeared that, in future, the sergeant-majors were to receive only 1s. 10d., the quartermaster sergeants 1s. 8d., the colour sergeants and sergeants 1s. 6d. Now, if that plan were carried out the country would be in the same position in which it was at the time the militia were embodied two years ago, when there was not a militia staff throughout the kingdom worthy of the name of soldiers. The members of that staff received such trifling pay,

that most of them had been compelled to become petty dealers, and trafficked almost as hucksters. Now, the non-commissioned officers, during the last two years, had in the discharge of their duties given the utmost satisfaction to their commanding officers. Hon. Gentlemen were aware that they could not get what were called "hedge carpenters or hedge masons" to work on their estates for less than 3s. or 3s. 6d. a day, and yet it was proposed to give men who were persons of education, and who had filled most responsible situations, the miserable pittance of 1s. 10d. a day for performing duties of a most important and responsible nature. If that plan were carried out, could they expect, when the services of the militia were again required, to find in its ranks men worthy to fill the position of non-commissioned officers? He thought that every man who wore the uniform of the army ought to be placed under the orders of the Commander in Chief; but when the militia were embodied two years ago the officers who applied for instructions to the Home Secretary were referred by that right hon. Gentleman to the Horse Guards; they were sent by the Commander in Chief to the War Department, and months passed before they were able to obtain any instructions. At length a most able officer, Colonel Pierrepont, was appointed assistant adjutant general of the militia force. That officer had given universal satisfaction, but now, having filled the position for two years, and having become fully conversant with all the details of the office, he had received notice that the appointment was to be discontinued. In the case of the permanent staff of the militia no one but the full colonel could interfere with the adjutant; and the lieutenant colonel who had commanded a regiment for five years might, the day after it was disembodied, be refused admission to the barracks by the adjutant. He would ask hon. Members whether that was a state of things which should be longer allowed to exist? The next point to which he would call the attention of the Government was the position of the quartermasters. In some regiments quartermasters had been appointed, but in others the duty had been done by subalterns, who received an extra allowance, and only those men who had been commissioned as quartermasters were now to be placed on the permanent staff. There were some cases in which quartermasters had resigned and done the duty as subal-

terns, in order to receive double pay, and those men must of course be satisfied with the arrangement; but surely men who had refused the appointment of quartermaster because their commanding officers wished to have the benefit of their services as subalterns ought to be placed on the permanent staff. He understood that in future there were to be two sergeants to a company, but he would suggest that the number should be increased to three, or that there should be one sergeant and two corporals. If that extension of the permanent staff was not approved of there ought at all events to be an orderly clerk, an armourer, a sergeant-major, and a drum or bugle major to every regiment. The counties at present were obliged to find quarters for half the staff, and he wanted to know what was to become of the other half if they were to be allowed no billet-money. The militia ought to have the same advantages with regard to the price of rations as the line. He would next call the attention of the Government to some of the regulations respecting non-commissioned officers in the army. A corporal who had obtained three or four good service badges lost his 1*d.* a day for each of those badges directly he became a sergeant. In consequence of that rule, a corporal had refused his offer to be appointed sergeant, because his responsibility would be increased and his remuneration diminished. A sergeant's pay in the infantry was £2 17*s.* 6*d.* a month, a corporal's £2 2*s.* 6*d.* The deductions from the corporal's pay were £1, leaving him £1 2*s.* 6*d.*; and the deductions from the sergeants were £1 7*s.* 9*d.*, leaving him £1 9*s.* 9*d.* But if the corporal had four good-conduct badges, he received, in addition to his pay, 10*s.*, in all £1 12*s.* 6*d.*, while the sergeant only received £1 9*s.* 9*d.* In the case of a sergeant in the cavalry the injustice was still greater, for, while a corporal with four badges received £1 18*s.* 9*d.* per month, a sergeant received only £1 3*s.* 3*d.* There was not a more worthy class of men in Her Majesty's dominions than the non-commissioned officers of the army, and they ought not to be treated in that manner. He therefore hoped the Under Secretary of War would be able to give some satisfactory explanation with respect to this gross injustice.

MR. PELLATT said, he was glad the subject had been fairly brought before the Committee for the injustice was so great as to call for immediate redress. No class

Colonel North

of men were so ill paid as the officers that had been referred to. Out of their small pay the sergeants had to pay 5*d.* a day for clothing, against 2*d.* a day paid by a corporal. Some of the latter, in consequence of good-conduct marks, as has been stated, get more daily pay than sergeants.

MR. FREDERICK PEELE said, his hon. and gallant Friend (Colonel North) seemed not to be aware that the rate of pay of the disembodied militia was different from that of the embodied militia. When embodied, all ranks received the same rate of pay as the army; but when disembodied, the pay of the various ranks was not the same, and if we were to pay the staff of the disembodied militia the same as the embodied, it would follow as a necessary consequence that all ranks of the militia would claim to be paid the same. [Colonel NORTH: So they are.] No, that was a mistake. If it were so, the disembodied militia would cost a much greater sum than they now did. They had other sources of income besides their disembodied pay. Most of them received pay in the line, or pensions for their services in the line; and he saw no objection to a non-commissioned officer pursuing a trade in those intervals of time which were not required for military duty. An objection had been made as to the department by whom authority should be exercised over the militia when disembodied. When embodied it was under the authority of the Horse Guards; but when disembodied it was considered to be a sort of Parliamentary or constitutional force, and not a portion of the army. He did not see what advantage would arise from transferring it to the authority of the Horse Guards. The advantage of inspection had been referred to; but if the colonel of a militia regiment thought it necessary he could apply to the Horse Guards for an officer to make a periodical inspection; and he (Mr. Peel) should be very glad if, by that or any other means, the military spirit of the country could be kept alive. He had already stated the course which the Government intended to take as to quartermasters. Where they found a commissioned officer in the actual performance of duties, he would be placed upon the permanent staff. Had not that been done, those officers would have been left without any provision at all. It was very easy to say that they ought to increase the number of the permanent staff of the militia; but unless very cogent reasons were assigned for that recommenda-

tion it would be impossible for the Government to agree to it. He did not believe that, under the present system, the duties to be performed by the permanent staff were more than would occupy the time of those already on the staff. Complaint was made by the hon. Member for Oxfordshire (Colonel North) that, under the present law, counties were compelled to provide quarters for half the permanent staff; but that was perfectly optional with the magistrates, for they might decline to provide anything beyond a secure store-house. But the permanent staff were, however, entitled to be billeted just the same as if the regiment were in an embodied state. He should be glad if the billet-money could be collected and applied to the supply of permanent quarters. It was said that there ought to be a drum or bugle-major on the permanent staff. He did not know exactly what would be the duties of drum-major in a disembodied regiment; but if it were merely to instruct the drummers, they might take the most expert of those and let him instruct the others, and with respect to the appointment of a sergeant-armourer there was at present a weekly sum allowed for the repair of arms. As to the subject referred to by the hon. Member for Southwark (Mr. Pellatt), he thought it quite impossible that a corporal should receive more than a sergeant. The pay of the one was 1s. 10d., of the other 1s. 4d. a day; and if a private served for thirty years, he would only then get on a level in pay with the sergeant. The regulation as to clothing had nothing whatever to do with the question. A sergeant was allowed, on retiring from the army, to add to his pension any additional pay which he might have earned as a private or corporal for good conduct, and in addition, to count his sergeant's services for extra pay. Supposing that a sergeant had served ten years as a private or a corporal, and received 2d. a day additional, and that he had served ten years as a sergeant, when he retired he would be entitled to add more pence to his pension on that account. It did seem a hardship to mulct the man in respect to his clothing; and he would certainly take that subject into consideration.

COLONEL NORTH said, he wished to know whether those members of the militia staff, to whom it seemed it would be open to sell and huckster, would be allowed to do so in uniform or not?

MR. FREDERICK PEEL was understood to say that in accordance with the

regulations which had hitherto existed, those soldiers to whom the hon. and gallant Member referred were required to appear in uniform only upon certain days.

LORD CLAUD HAMILTON said, he considered that it was absolutely impossible to maintain a body of men in a state of military efficiency upon an amount of pay which was less than that which the humblest labourers received. Many of those men who were to be retained upon the militia staff had, owing to their good conduct, risen from the rank of privates; and it was certainly no adequate return for that good conduct to place them upon a footing which would preclude them from being able to keep up even a military appearance. It was, however, said that those men might add to their resources by pursuing some trade; but he for one thought it a matter well worthy of consideration, whether in acting upon that principle they would be taking the best course to secure the services of an efficient body of soldiers, and whether it would not be better rather to diminish the number of the militia staff, and maintain their military appearance and discipline, than to keep up a larger number and lose sight in a great degree of considerations so important. There was another matter which he thought was well deserving of the attention of the Committee, it was, whether it was not desirable to place upon an equality, upon the score of pay, the sergeant who happened to have entered the militia as a private, and who, by his good conduct, had gained for himself his present position, and the man who happened, in consequence of his having been in the army before, to have entered as a sergeant, and who was entitled to a pension for his former services? He did not wish for a moment that the latter should be deprived of one penny of that pension. All he desired was, that the inequality which must necessarily now exist between the two classes of men with respect to pay should be removed, and that the merit of the former in rising by their good conduct to the same rank as their fellow sergeants should be duly recognised. He also was of opinion that the Government ought to supply provisions to the soldiers of the militia staff at contract price.

COLONEL BUCK said, he was extremely gratified to find that the services of the militia had met with the warm approbation both of that House and of the country. They were, he thought, deserving of that

approbation; and not the less so because while during the last war the men had been balloted for, the present militia force had been composed entirely of volunteers. That circumstance had entailed upon the officers a much greater amount of anxiety and of labour than they had under the old system been subjected to; but notwithstanding all the difficulties with which they had had to contend, the militia regiments had not only been filled, but in many cases—and in that of his own regiment among the number—the complement of men had been doubled, the places of those who had volunteered into the line having been filled up as soon as they had been vacated. Having said thus much of the readiness with which volunteers had come forward, he would now beg to call the attention of the Committee to the disadvantages of making the Lord Lieutenant of the county colonel of a regiment in the case in which there happened to be two or three regiments of militia as in his (Colonel Buck's) own county. The interests of the regiment of which the Lord Lieutenant was colonel might be distinct from those of another regiment belonging to the same county, and the consequence would be that the interests of the one might in some instances be postponed to those of the other. The Lord Lieutenant should not, therefore, in his opinion, be placed in a position in which favour or bias should be supposed to actuate his decisions with respect to that arm of the service over which, when in a disembodied state, he exercised so extensive a control. In illustration of the disadvantages of that policy he might observe, that while the South Devon militia was No. 25 on the list of militia regiments, the East Devon being No. 41, the Lord Lieutenant of the county having been colonel of the latter regiment, had authority conferred upon him to give to it that precedence to which, in accordance with military regulations, the former was entitled. By some jugglery the latter regiment was now called the 1st Devon, and the former, which by age and position on the list had the precedence, the 2nd Devon. Now that, he must contend, was a system of jobbing which must operate very injuriously upon the efficiency of the service, and which should not be resorted to out of considerations of deference to any individual, however high might be his position. Such considerations, however, were but too frequently found to prevail, and that such was the case had upon more

Colonel Buck

than one occasion come within the scope of his own experience. Lord Mount Edgcumbe, for instance, had been permitted to interfere very materially with the efficiency of the militia artillery practice at Devonport—a subject in connection with which he (Colonel Buck) had moved for certain Returns, which had formed the topic of a conversation at an interview which he had had with the right hon. Gentleman the Clerk of the Ordnance. One of the papers in question was a letter which had been written by Lord Mount Edgcumbe, complaining of the artillery practice which had been carried on within two miles of his house, greatly to his annoyance, and at a spot adjacent to some property upon which it was his intention to build. Such was the usual mode in which a contemplated job was introduced to the notice of the Government. In the instance to which he referred it had emanated from a great man—Lord Mount Edgcumbe, and had been backed by the influence of a still greater man—Lord Lansdowne. While calling the attention of the Committee to that circumstance he might be permitted to congratulate those with whom he had the honour to act, that it was not a nobleman of the Tory party whose assistance had either been solicited or obtained in the matter, but an experienced Whig nobleman whom the Tory nobleman selected to assist him. But to proceed, the letter of Lord Mount Edgcumbe had been submitted to Lord Panmure and to the colonel of the Royal Artillery at Devonport, and the result had been that the acquiescence of both those distinguished individuals having been obtained, the artillery practice, at the spot at which Lord Mount Edgcumbe had objected to its being held, had been put an end to. He (Colonel Buck) having complained to the Clerk of the Ordnance of the injury which had thus been done to the public service, had had his objections to it laid, in the first place, before the colonel of Artillery at Devonport, and, in the next place, before Lord Panmure, both of whom had previously acquiesced in the representations of Lord Mount Edgcumbe, and the consequence had been, as might very naturally have been anticipated, that they had adhered to their original views in the matter. Indeed, he hardly knew of an instance in which objections such as he had advanced had been so dealt with before, except, perhaps, in the case of the proceedings of the other House of Parlia-

ment, in which the Lord Chancellor was at present sitting to try an appeal from his own decision. The result of that success of Lord Mount Edgcumbe's representations had been, that the militia artillery had been driven to practice at Drake's Island, which was three-quarters of a mile from the shore; and from that island had been obliged to go to the citadel, which was at a still more considerable distance. Now, there were many objections to prosecuting artillery practice at the citadel, one of the most important being that the range for firing was across the harbour of Devonport, thus causing the practice to be attended with considerable danger and delay, owing to the constant sailing of vessels into and out of that harbour. That view of the case was fully borne out by the major of the regiment to which he had the honour to belong—a man who had served under the Duke of Wellington, and whose testimony was entitled to the utmost consideration; and the consequence of the whole transaction had been that much valuable time for practice was lost to the militia artillery, and of course the efficiency of the service so far impaired. Another subject which he deemed to be well worthy of the consideration of the Committee was the state of our fortifications, which at Devonport, as well as elsewhere, he believed to be in a very imperfect condition. The Government authorities were at present engaged in completing, at an enormous cost, what were called the lines at Devonport. Now, it appeared that the late Duke of Wellington had given it as his opinion that those lines would be wholly useless, and the works had in consequence been discontinued until within the last two or three years, when they had been resumed. But a general impression still prevailed that they could be of no use to keep any people out of Devonport except the inhabitants of Plymouth. He hoped that a Committee would as soon as possible be appointed to inquire into the state of the defences of this country, and that the commission would not consist exclusively of engineers, but would also embrace officers in the marine artillery, captains in the navy, and scientific men, such as Mr. Fergusson. Before resuming his seat he should allude to the condition of Fort Biddlecombe. He had every reason to believe that that fort would be useless for defensive purposes. It was exactly such a work as one might expect to see on the stage of a theatre,

and it was said that the reason why it had been so constructed was that Lord Mount Edgcumbe, on whose property it was built, required that it should be of an ornamental character. He would not trespass any further on the time of the Committee, but he would venture to express a hope that the noble Lord at the head of the Government would give the best consideration in his power to the observations he (Colonel Buck) had felt it his duty to make upon that occasion.

MR. MONSELL said, it was the opinion of Sir John Burgoyne that the fort at Biddlecombe, which the hon. and gallant Member had so severely criticised, was one very admirably adapted for the purpose for which it had been constructed; and it was impossible for the agents of the Government not to act upon the opinion of Sir John Burgoyne in preference to that of the hon. and gallant Gentleman in such a matter. It was true that there was some ornamental work on it, in consequence of Lord Mount Edgcumbe, who had given permission to have it built in his park, having required that it should wear a more or less ornamental aspect; but it was by no means unreasonable that the noble Lord should have insisted on such a condition. With regard to the lines at Devonport, he had to observe that the hon. and gallant Gentleman was in that case also directly at variance with the high authority of Sir John Burgoyne, who had decidedly recommended that the works should be proceeded with. In reference to the removal of the artillery practice from one point to another, he readily admitted that in such a case the convenience of a Peer ought no more to be consulted than that of anybody else, and that no distinction ought to be made between one class of Her Majesty's subjects and another. When a complaint had been made by Lord Mount Edgcumbe of the inconvenience which he and his family suffered from the practice of firing at a particular spot, that complaint had been referred to the Director General of Artillery, who, in his turn, had referred it to the consideration of the commanding officer of artillery at Devonport; and the latter officer, after having carefully inquired into the matter, had given it as his opinion that no injury would arise to the public service from the removal of the practice to another spot. Of course, the commanding officer of artillery was not infallible any more than any one else. The views of the

hon. and gallant Member on this subject certainly had not been adopted; but that circumstance gave him no right to talk as he had done of gross jobs, or to make the most unfounded charges against a department which, in this instance, had only followed its usual course of seeking the best advice, and then acting upon it. If the hon. and gallant Officer could suggest a better plan than the one that had been pursued, the department would feel extremely obliged to him; but he ought to remember that a bad case could never be mended by the flinging about of random and unjust imputations.

COLONEL GILPIN said, he had to complain that the paymasters were about to be treated in what he considered a very unfair manner on the occasion of the disembodiment of the militia. The subalterns, generally, were to be dismissed with a gratuity of six months' pay; but the paymasters, who had imposed upon them peculiar responsibilities, and who had to incur a peculiar expenditure, would be employed three months longer than other officers, and would then be dismissed with a gratuity of only three months' pay. It seemed to him to be manifest that the fact that they had extra duty to discharge, with the usual pay during the period they were fulfilling that duty, ought not to disqualify them from receiving the six months' gratuity on the occasion of the cessation of their labours.

MR. FREDERICK PEEL said, that the treatment of the paymasters and of the subalterns was only different in terms. The paymasters, from the special nature of their engagements, would be employed three months after the disembodiment of the militia, for the adjustment of their accounts, and would then receive a gratuity of three months' pay. They would thus receive as large an amount as the subaltern from the moment the disembodiment took place.

COLONEL GILPIN said, it was not the less true that the paymasters would receive only a gratuity of three months' pay from the period at which their work was to cease.

COLONEL NORTH said, he thought the position of captains of militia was one of peculiar hardship. [*A laugh.*] Hon. Gentlemen might laugh, but it was no laughing matter for the officers themselves. The regulation respecting the property qualification of militia officers had been relaxed, and the Government had availed them-

selves in that force of the experience of officers who had been for five years in Her Majesty's service. Those officers had toiled incessantly for the last two years to bring the militia into an efficient state, and, he believed, in consequence of the expenses they had incurred from the injury done to arms by recruits, and from other circumstances, there was hardly a captain of militia who would not retire from the service with a pecuniary loss of at least £50.

MR. COWAN said, he thought the adjutants in the militia had special grievances to complain of. They were the only officers whose families were entitled to no pensions, and they had no allowance made to them for their outfits. But he had risen principally for the purpose of referring to another topic. Some three months ago he had brought forward a Motion against the system of billeting in Scotland, on which the Government had been defeated. He hoped they would immediately proceed to adopt measures for carrying out the Resolution of the House upon that subject, and that they would relieve the people of Scotland from what was felt to be a very great grievance.

SIR WILLIAM JOLLIFFE said, he believed it was generally admitted that the militia had during the last eighteen months rendered very important service to the country, and he thought that the present time was a very favourable one for making a liberal recognition of their merits. He regretted to hear it stated on the part of the Government that the members of the militia staff, which was still to be maintained, should depend mainly for their subsistence on what they could earn in addition to their pay. It appeared to him that it would be both wise and becoming on the part of the State to place them in a more independent position. There was another point to which he also wished to direct the attention of the Committee. It had been stated by the hon. Gentleman the Under Secretary for War that it was the duty of the Lords Lieutenant of counties to order the training of the militia. But the Act required, as he understood it, that the training of the militia should be undertaken under an Order in Council, and that the Lords Lieutenant should merely determine what were to be the precise time and district at which it was to take place. No Order in Council had been issued upon the subject last year, and he found that only thirteen regiments had been trained

in the course of that year, and that at an expense of £10,379, which was about £4 8s. per man.

MR. FREDERICK PEEL said, the Act required that the Lords Lieutenant should appoint, with the approbation of the Crown, the time and place at which the exercise of the militia should take place.

SIR WILLIAM JOLLIFFE said, that the Lords Lieutenant had the power of fixing the time and place at which the training was to be undertaken, but the order for the training ought to issue from the Queen in Council.

MR. FREDERICK PEEL said, he was aware of that. Each regiment should be trained once a year, and he imagined that the object of the Act was to leave it to the Lords Lieutenant to decide what were to be the time and the locality at which the trainings were to take place, because they were naturally the best judges of what would suit the convenience of the men in reference to those points. Of course, if the Lord Lieutenant did not order any training within the year, it would be the duty of the Government to see that the provisions of the Act were enforced.

SIR JOHN BULLER said, the discussion on the present Vote had been of a very diversified character, and on some of the points alluded to he had a remark or two to offer. In the first place, he felt bound to express his opinion that the works on the lines at Devonport touched on by his hon. and gallant Friend the Member for Barnstaple (Colonel Buck), notwithstanding the authority of the name of Sir John Burgoyne, were the greatest absurdity ever witnessed. There was a story at Plymouth that the Duke of Wellington saw the lines in operation, that he spoke to the people employed there on the subject, that he then went to luncheon, that the people went to their dinners, and that they never returned, and the work was never resumed. To re-open them, therefore, would be to throw away money. Then, of all the miserable arrangements ever heard of, those at Fort Biddlecombe, for the supply of water, were the most miserable. There was a small tank to catch the rain water, but it would not catch enough for 200 men, and when the pump was used, the liquid came up unfit for use. Besides which, he understood that the guns could not be sufficiently depressed to be serviceable. He wished, before resuming his seat, to call the attention of

the Government to the system of billeting. He did not see how to get rid of it on the march; but unquestionably, where possible, the system should be dispensed with, and the men relieved from the disagreeable position in which they were now placed. Nothing could be worse than placing very young men—drummers, for instance, and very young sergeants—in common public-houses when up for their twenty-eight days' training, or when called out for service; and if the Government could allow the young men to have lodgings, or to provide for themselves, instead of being placed in the public-houses, they would do that for which the men and boys would be thankful. In their disembodied state there were no officers to look after them except the adjutant, who, at the utmost, could muster them only once or twice a day; and the rest of the time they were under no restraint. He would not venture to describe the state of things to which he himself had been an eye-witness at Plymouth. He quite concurred in the opinion of hon. Members who had preceded him, that the paymasters would be treated unfairly if they were to receive a gratuity of only three months' pay after the termination of their labours. The adjutant was a permanent officer of the staff, always with his regiment, and if he were active and looked after the interests of the militia and recruiting, he would have quite enough to occupy his time. He (Sir J. Buller) therefore thought that his claim for an additional rate of pay was worthy of being taken into consideration by the Government. He had no doubt the subject would be well considered by the Secretary for War, but inasmuch as the office of adjutant was permanent, his claims might be brought under notice on a future occasion. Attention had been called to the captains of the militia. As that force was constituted, generally the captains were gentlemen of landed property, possessing ample qualification, and who did not, therefore, he thought, have a very powerful claim for additional remuneration on the Government. There was a contingent fund, and if they did their duty there was hardly any case in which that fund was not able to cover the demand. But there was another class of militia captains, young men holding commissions in the line who had come forward to assist in training the militia, in the hope that by doing that essential service to the country they might push their own fortunes. That class, he thought, had a claim upon the

Government, because, on many occasions, they were forced into an expenditure beyond their means; and having come at the request, at least, of the Government to help in drilling the militia, they were certainly entitled to some consideration on the part of the Government, which he hoped would be shown to them.

LORD CLAUD HAMILTON said, he wished to call the attention of the noble Lord at the head of the Government to the fact, that in consequence of the accounts having to pass the War Office it was not always possible for the paymaster to settle the matter within three months, and it would be very hard that they should be deprived of the month's bonus, because it might very well happen that they would have to work very hard after they had sent in all their accounts in checking and making the disallowances ordered. They had also to find securities, which in some cases could not be obtained without money, so that, in addition to the loss of their pay, they would lose the interest of the money expended by them.

VISCOUNT PALMERSTON said, he could assure the Committee that the Government were fully sensible of the great public utility and value of the militia, and were most desirous that the militia should be kept in such a condition as to fully meet the purpose for which it was established. Any fair liberality to the officers on being disembodied would be entirely in accordance with the wishes of the Government. With regard to the paymasters, if their accounts were properly kept, the duty of settling those accounts would not be a very hard one, and they could correspond with the War Office, as well from one place as another, so that they could select their residence where they pleased. The Government were quite sensible of the great value of the artillery branch of the militia. Indeed, he might take some credit to himself on that account, because as it was his duty as Home Secretary to arrange the distribution of the corps, when the militia was formed, he, for the first time, established a large number of artillery regiments, amounting, for the whole of the United Kingdom, to, he believed, between 16,000 and 18,000 men. No doubt they were a most valuable corps, and, having had access to the returns of practice, he was aware that the regiment alluded to by the hon. and gallant Member for Barnstaple (Colonel Buck) had shown great efficiency; indeed, he believed no part of

Sir John Buller

the regular artillery had displayed greater efficiency. With regard to the forts and lines at Plymouth, he thought gentlemen were mistaken in the opinion they entertained as to the difficulty of completing those lines. The matter had received great attention, not only from Sir John Burgoyne, but from Her Majesty's Government in consultation with him, and the Government came to the conclusion that the whole extent of those defences should be completed, and that, with a view to defence from a particular quarter, they would form a very valuable addition. As to the fort to the seaward of Mount Edgcumbe, Fort Biddlecombe, he had been within it, and he could not imagine upon what ground it could be pretended that guns could not be fired from it. The engineers who constructed it, so far from thinking there was anything to prevent it being usefully employed, believed that, from the manner the guns were placed near the line of water, and from other circumstances, it would be a very valuable addition to the defences which commanded the entrance to the Sound on that side of the Breakwater. With regard to billeting in Scotland, alluded to by the hon. Member for Edinburgh (Mr. Cowan), he wished to state that, in consequence of the vote of the House, the Government contemplated introducing a provision into the Mutiny Act of next year, placing Scotland on the same footing as England—namely, that it should no longer be in the power of the Government to billet troops on private houses, and that billeting should apply to public-houses only. The hon. Baronet the Member for South Devonshire (Sir J. Buller) wished to carry that exemption further. He quite agreed with the hon. Baronet, that, consistently with a due regard to the public service, it was impossible altogether to exempt public-houses from the liability to receive billets, and that the military service of the country could not be carried on without recourse to billets. But it was unquestionably true that it was very undesirable to billet troops, and more especially militia and young troops in public-houses if it could be avoided. When he was at the Home Office he received great complaints from the keepers of public-houses in one part of Yorkshire on the conduct of the militia quartered on them. They said that in former times they made a very good profit out of the drinking of militiamen, but that the present militiamen were so very sober that they made

nothing out of them, and were losers by the sum allowed as compensation by the Government. That showed, however, that the conduct of the militia was not affected in Yorkshire by the temptation of billets, as seemed to be the case in Plymouth. The Committee would see that there were only two methods of providing for troops—either in barracks, or by encampment. The construction of barracks he considered to be a most important object to which the attention of the House of Commons ought to be directed, and the assistance of Parliament ought to be afforded. But, at the same time, the object could not be accomplished without a very large expense, when it was remembered how desirable it was to raise the character and condition of the soldier by the construction of barracks on improved principles, which would give means for classification and healthful exercise. That would increase the expense; but he could assure the Committee as far as the means of putting troops, whether militia or regulars, in barracks existed, the Government would avail themselves of those means, because it was desirable, in the first place, for the sake of the discipline of the army, and, in the next, for the sake of relieving innkeepers from the burden of which they complained. He need scarcely say that the various suggestions which had been thrown out in the course of the discussion would receive the attention of Her Majesty's Government. With regard to the permanent staff of the militia, the great object was to retain that number of non-commissioned officers which was necessary to take charge of the arms and clothing during the period the regiments were not assembled for training, and not to go beyond that, because whatever attention was paid by the adjutant, he had not the same means of keeping a small number of sergeants up to the military point which existed with regard to regiments embodied or assembled for training. It was important that sergeants should not lose their efficiency, and it appeared to him the better course would be to have no larger permanent staff than was absolutely necessary; and that, when the militia regiments were called out for training, they should have the advantage of drill sergeants from the regiments of the line, who would bring with them the latest improvements and the full spirit of military smartness, and if at any future time it should become necessary to embody the militia, sergeants could be taken by promotion

from the smartest and best men in the line. With respect to armourer-sergeants he was inclined to believe that respectable gunmakers could be found to keep the arms in better repair than any armourer-sergeant. The Government had, he conceived, shown that they were disposed to treat the subject with as much liberality as was consistent with a due regard to economy, and he could assure the Committee that the Government was deeply sensible of the great value of the services of the militia, and of the devotion to the public interests displayed by its officers in sacrificing convenience and comfort for service at home and abroad for the benefit of the country. With regard to the question of training, it was true that it rested with the Lords Lieutenant to fix the time and place of assembly, but undoubtedly it was for the Secretary of State to intimate to the Lords Lieutenant that their particular regiments were to be called out for training during a certain period. Last year, however, the greater part of the militia was embodied, and it was quite possible that with respect to some of those regiments that were not embodied there might have been doubts between the Lord Lieutenant and the public department as to the period for calling them out, and that some of the regiments might have been overlooked.

SIR JOHN BULLER said that, with regard to paymasters, they were required to send in their accounts signed by the commanding officer and the adjutant, and accompanied by a declaration before a magistrate that they had been examined in the presence of all three parties.

VISCOUNT PALMERSTON said, the paymaster was to send in his accounts as soon as possible after they were made up, and the only duty remaining after that was corresponding with the Departments in respect to any disallowances of sums charged in those accounts.

SIR JOHN BULLER said, that the paymaster could not leave head-quarters until he had prepared the accounts, and had them signed by the commanding officer and the adjutant.

MR. W. WILLIAMS said, there had been a former Vote of £1,010,000, and he assumed that that amount could not possibly be expended on the embodied militia, for some 40,000 men, or thereabouts, for a period not exceeding four months. There was an item of £18,500 for enrolling and attesting 20,000 men.

Surely they did not expect to raise 20,000 militiamen in the course of the present year. Then, again, there was a large sum for half-pay or retired allowances for no less than 2,999 lieutenants and sixty-six ensigns. He wished to know if that was to be a permanent charge, or a charge for the current year only.

MR. FREDERICK PEEL said, the amount voted for the army was not applicable to the disembodied militia. More than half of that sum of £288,000, namely, £180,000 was to provide for the pay and allowances of the permanent staff of the disembodied militia. Every regiment of militia ought, as a matter of rule, to be trained and exercised once in every year, but they intended during the present year only to call out these that had not been embodied, and it was provided in the estimate that they should be trained for a period of forty-two days. With regard to the bounty for raising 20,000 men, as the militia men were only enlisted for a period of five years, of course a number were continually receiving their discharge, and it was calculated that for the present year it would be requisite to raise 20,000 men in order to supply the deficiency. With regard to the half pay, it was for old allowances, and those lieutenants and ensigns were those who were in the late war.

COLONEL DUNNE said, that with respect to the observation that the officers of the militia would be satisfied with the liberality of the Government, he must say that he was far from contented with the lavish expenditure of the Government. The noble Lord (the First Minister of the Crown) had told them that they were to have a staff who were to do nothing but take care of the arms. It was monstrous that the sum of £288,000 should be thrown away for that purpose. Forty years' experience had proved the inutility of that staff, and what was required was a new organisation. In thirty years £8,000,000, and in forty years £11,000,000 had been spent on those useless staffs of militia. It was, he considered, so much money thrown away. He thought the training of the twenty regiments alluded to would be also money thrown away. In the meanwhile there was a large force of foreign legions doing nothing, though they cost £58 per man. Those troops were brought to Aldershot, whereas they ought to have been disbanded; or if not, they ought to be kept on the edge of the country, ac-

Mr. W. Williams

cording to the promise of the Government when the foreign legion was raised. He would give every assistance to any financial reformer who would seek to rectify those abuses.

VISCOUNT PALMERSTON said, he must explain that he did not say the militia staff had nothing to do, but that it was not desirable to retain a larger number of sergeants than necessary, and that when they were embodied it was better to make up the number by soldiers from the line.

House resumed.

WILLS AND ADMINISTRATIONS (STAMPS).

Order read, for resuming Adjourned Debate on Question [2nd July]—

"That the Resolution 'That it is expedient to authorise the collection, by means of Stamps, of the Fees to be payable in Her Majesty's Court of Probate and Administration, and the Testamentary and District Offices to be established by any Act of the present Session relating to Wills and Administrations,' be now read a second time."

Question again proposed.

Debate resumed.

Question put, and *agreed to*.

Resolution read 2°, and *agreed to*.

WILLS AND ADMINISTRATIONS BILL.

Order for Committee read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

MR. HENLEY said, he wished to make a few observations on the position in which the Bill now stood. He had been unable, through indisposition, to be present when the subject was last discussed, on which occasion the House, he thought, took a somewhat unusual course. A Bill was then read a second time which nobody intended to proceed with, and which was so read on the clear understanding, that as soon as that operation should be duly performed, the measure was to vanish, and another to accomplish the same end, but differing wholly in its details, was forthwith to be substituted. Accordingly the Bill now before the House was as different as chalk from cheese from that originally introduced by the hon. and learned Solicitor General. He should say that the transmogrification was the result of what he might almost call a sort of illicit intercourse between the hon. and learned Member for East Suffolk (Sir F. Kelly) and the hon. and learned Gentleman opposite (the Solicitor General). When the hon. and learned Gentleman brought in the Bill

it did not contain the name of the Court of Chancery, because, as the hon. and learned Gentleman was well aware, that name had no very good repute in the House of Commons. The hon. and learned Gentleman, therefore, with considerable adroitness, originally proposed to constitute a Court with all the powers and without the name of the Court of Chancery; but his (Mr. Henley's) hon. and learned Friend the Member for East Suffolk (Sir F. Kelly), who had a great dislike to the Court of Chancery, refused to have anything to do with the Bill, unless some other sort of Court were substituted for that Court. The clause by which the Court was constituted now conferred upon it all the powers at first proposed by the hon. and learned Gentleman, and the powers of a Court of Common Law besides. The powers now to be given to it were sufficiently large to make it a tribunal of any sort or size, and they were left entirely in the dark as to what was to be its practice or procedure. Rules for its regulation were to be framed by the Judge, subject to the approbation of the Lord Chancellor, the Lords Justices, the Master of the Rolls, and the Chief Justices of the Common Law Courts; and whether it would turn out to be a Court of Common Law, as his hon. and learned Friend the Member for East Suffolk said, or a Court of Chancery, according to the wish of the hon. and learned Gentleman (the Solicitor General) no one could tell. The present Bill, too, dealt a great deal more with the subject of real property than the original Bill of the hon. and learned Gentleman; it went even further, he apprehended, than the recommendations of the Commissioners; but remembering that not many years ago a measure had been shipwrecked in another place upon that very ground, he doubted whether that part of it would facilitate its progress through Parliament. He was willing and anxious that the law should be so altered that, when probate had been granted to any instrument dealing with either real or personal property, everything within the four corners of that instrument should be concluded by the judgment of the Court which granted probate; double litigation upon the same instrument ought not to be necessary, but he did not think it would be prudent to go further and to risk the loss of a good measure by dealing with real property to a greater extent than was required, in order to get rid of the evils of the present sys-

tem. Another great and very beneficial change in the Bill was that which extended the jurisdiction to country districts. No measure which did not enable people to get their own business done in their own neighbourhood would have a chance of, or even deserved, success. But he felt a difficulty as to going into Committee that evening, and, from some observations of the right hon. Baronet opposite (Sir J. Graham) the other night, he thought the proposal he was about to make to obviate that difficulty, would probably meet with the right hon. Gentleman's sanction. It would be quite impossible at that hour (a quarter to eleven) to make any great progress with the Bill, and they certainly could not discuss it with any advantage until the question of the constitution of the House of Lords, as a Court of Appeal, had been in some way or other settled. It was proposed to give suitors in the new Court the option of a double appeal; they would be able either to go, in the first instance, to the Lords Justices, and then to the House of Lords, or to go direct to the House of Lords, if they so wished it. Surely that proposition could not be properly considered; no sound decision upon it could be arrived at, unless they knew how the Appellate Court of the House of Lords was for the future to be constituted, and whether it would be constituted in a manner that would give confidence to the public, and enable them to resort to it without being put to a ruinous expense. If the Court of ultimate Appeal could be reached at a moderate expense, it might, perhaps, be desirable to have no intermediate Court of Appeal. He would, therefore, ask the House, to postpone going into Committee until after Monday, when the Appellate Jurisdiction Bill would be brought under their consideration. Another reason for postponement was, that he had learned, through those indirect channels from which they sometimes obtained information, that the hon. and learned Gentleman the Solicitor General intended to propose still further alterations. For these reasons he earnestly hoped that the House would agree to his Motion not to go into Committee until after they had considered the Appellate Jurisdiction Bill.

MR. SPEAKER: I must inform the right hon. Gentleman that the Motion can not be put in that form.

MR. HENLEY said, he would then move that the House resolve itself in Committee on Tuesday next.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon Tuesday next, resolve itself into the said Committee," instead thereof.

MR. COLLIER said, he hoped that the Committee on the Bill would not be postponed; the question, as to whether the appeal should be given to the House of Lords or to the Privy Council was one which might easily be discussed at a subsequent stage of the measure, and, reserving that question, it would be very desirable to proceed at once with the measure.

MR. MONTAGU CHAMBERS said, he thought that the House was wasting a great deal of time, inasmuch as there was not the slightest prospect of carrying the measure, which was one of the greatest importance, to a satisfactory conclusion during the present Session. The Bill was one formed from the combination of three other Bills, and, if the Committee upon it were postponed until Tuesday next, Gentlemen who were interested in those three Bills would be able to determine whether it would be possible to proceed with it during the present Session, and he hoped, therefore, that the proposal of the right hon. Gentleman opposite (Mr. Henley) would be acceded to.

MR. ATHERTON said, he sincerely hoped that the House would consent to go at once into Committee upon the Bill. Considerable delay had already taken place, and much mischief had thereby resulted in dealing with this important subject, and he did not consider it advisable that further delay should be allowed, and further mischief consequently submitted to. He did not imagine that any great progress would be made in the Bill that evening, if the House went at once into Committee; but still the fact of going into Committee was progress in itself; and if the Bill could be carried to a conclusion during the present Session a very great advantage would be obtained. It ought to be remembered that before another week, probably before next Tuesday, hon. Members of that House who belonged to the legal profession would have gone circuit, and he ventured to think that on a subject of that description, the study, and still more the experience of Members of the legal profession, might be useful in enabling the House to arrive at a satisfactory result.

MR. KEATING said that, if he were assured that it was the *bonâ fide* intention

of the Government to proceed with the Bill during the present Session of Parliament, he would have no objection to go at once into Committee, but upon that subject he entertained grave doubts. The hon. and learned Solicitor General had obtained the second reading of the Bill, by promising to introduce into it certain provisions contained in the Bill of the hon. and learned Member for Plymouth (Mr. Collier) and in that of the hon. and learned Member for East Suffolk (Sir F. Kelly). That part of the Bill of the hon. and learned Member for Plymouth which was to have been incorporated in the present Bill gave a jurisdiction to County Courts, and that part of the Bill of the hon. and learned Member for East Suffolk, which ought to have been introduced, related to a simplification of the mode of procedure. Now, looking at the present Bill, it was his firm conviction that the drawer of it never intended to give effect to the views of the hon. and learned Member for Plymouth, or of the hon. and learned Member for Suffolk. One clause, it was true, gave a contentious jurisdiction to the County Court, but then the rest of the machinery of the Bill rendered it impossible that a contentious cause could ever be settled in those Courts; and in the same way the views of the hon. and learned Member for Plymouth were not carried into effect. Probably the hon. and learned Solicitor General had not had time to look very carefully to the construction of the Bill, but he hoped that, if it was his intention to carry out the views of the two hon. and learned Gentlemen to whom he had referred, he would before Tuesday next carefully consider the clauses of the Bill.

THE SOLICITOR GENERAL: Sir, I have never experienced in so practical a way the wisdom of the old adage,— "Heaven preserve one from one's friends,"—for the attack which has just proceeded from what I imagined to be a friendly quarter is even more unwarranted and more unjust than any which has proceeded from any other quarter of the House. I cannot think that the hon. and learned Member for Plymouth can concur in that attack, nor do I think that the hon. and learned Member for East Suffolk will be ready to defend it; for the clauses in the present Bill which refer to the mode of procedure are so similar to those in the Bill of the hon. and learned Gentleman (Sir F. Kelly) that they might have been cut out of that Bill with the scissors, perhaps even

by the hand of the hon. and learned Gentleman himself, and pasted upon the draught of the present measure. So much for the attack which has been made upon the Bill because it departs from the understanding I had with the hon. and learned Gentlemen the Members for Plymouth and East Suffolk. I admit, Sir, that I have fallen into a great error in attempting to please all the world. Another mistake has been this, that I imagined there was some agreement, some concert, some mutual understanding, some harmony between right hon. and hon. Gentlemen who sit on the opposite side of the House. Yet the fault was not wholly mine, for the hon. and learned Member for East Suffolk professed to be the exponent of their combined wishes and desires, and my error lay in innocently, but as it appears most erroneously, confiding in his representation that he spoke their sentiments. My hon. and learned Friend claimed to act on their behalf; but now I find that upon this subject, as recently the House has seen upon many others, there is no agreement between any two Gentlemen on the opposite side. What to do under such circumstances I really am at a loss to conjecture. But I have not yet told the House all; for, assailed in front and in rear, I have still another enemy to encounter. I had imagined until now that it was one of the fondest wishes of the right hon. Baronet the Member for Carlisle (Sir J. Graham) that he might live to see the day when these Ecclesiastical Courts should be abolished. On former occasions I have imbibed from him a great number of correct principles, and received from him most valuable advice with respect to the accomplishment of this great undertaking. Yet, if I may judge from a speech which I had the misfortune to hear the other night, the right hon. Baronet has changed all his opinions, and, by some wonderful process which I have not the wit to understand, he has arrived at a conclusion exactly the opposite of that which he has entertained for the last twenty years. Now, in this predicament, what to do, as I have just said, is exceedingly difficult to determine. With regard to the right hon. Gentleman the Member for Oxfordshire (Mr. Henley), if I do not violate any confidence in referring to a conversation which I had with him some time ago, I may state that I was so much impressed with a desire he appeared to entertain to provide for the country districts that I introduced his suggestions upon that

point into the Bill. I have, therefore, sincerely endeavoured—and, perhaps, this will be accepted as a proof of my want of Parliamentary experience—to make the Bill a measure that would be acceptable to all. With reference to the debate the other night, the House will do me the justice to recollect that I did not ask them to take the Bill upon trust, because I was careful to point out that there were three Bills at the present time before the House, describing what I intended to borrow from one, and for what I meant to be indebted to another. I hope, therefore, the House will acquit me of having in any manner desired to lead them into the second reading, without giving them an opportunity of considering all the provisions of which my Bill would ultimately be composed, especially when I recall to their recollection that I stated at the time that I would have no objection to any hon. Gentleman discussing the principle of the measure again upon going into Committee. Now, unfortunately, Sir, I have another antagonist to which I have not yet referred, though it is, perhaps, the most formidable of all—I mean time. Under these circumstances, and surrounded by enemies on all hands, I can do nothing but yield to the proposition of the right hon. Gentleman the Member for Oxfordshire, and defer the consideration of the Bill in Committee till Tuesday next, trusting that on that occasion I shall have his concurrence, and, I hope, the concurrence of at least some Gentlemen who may be pleased to act with him on the other side, in endeavouring to advance a measure which I firmly believe calculated to confer great benefits upon all classes in the country.

SIR JAMES GRAHAM: Sir, I think the hon. and learned Gentleman has given us practical proof that the advice which the noble Lord at the head of the Government tendered to a right hon. Friend of mind the other night, cannot in all cases be followed with success, and that half an hour's conversation with Gentlemen who sit on the opposite side does not always lead to satisfactory results. I also think I may infer from the discussion which has taken place, that what a very great lawyer—Lord Clarendon—calls the “impossible faculty of pleasing everybody,” does not help the hon. and learned Gentleman the Solicitor General in his endeavours to pass his Wills and Administration Bill through the House. Now, Sir, I would like to ask the hon. and learned Gentleman, since he

compels me to speak, whether the House is yet in possession of his own ultimate views? To be more pointed in my question, I will ask him whether it be true or not that it is his intention to propose that a district probate shall be granted where the sum does not exceed £1,500 or £2,000. Unless I am misinformed, it is the intention of the hon. and learned Gentleman, in fulfilment of a pledge which he has already given out of doors, to propose such a provision, which, I need hardly say, would be a great alteration of the Bill before the House. The hon. and learned Gentleman has thought fit to charge me with a change of opinion on this subject. Let me illustrate to the House what is the position of the hon. and learned Gentleman himself with respect to change of opinion from the Report of the Chancery Commission. I served with him on that Commission, and, led by him, I joined in some of his recommendations, though with much doubt and hesitation, but influenced by the confidence which I then reposed in his judgment. The Report of the Chancery Commission recommended distinctly that the new Court should be connected with the Court of Chancery. That was the advice of the hon. and learned Solicitor General. I followed his lead to the extent that with him and the Master of the Rolls I joined in protesting against the recommendation of a majority of the Commission, that there should be a separation in the jurisdiction between probate and administration, and construction and administration. The hon. and learned Gentleman talks of change of opinion, and yet he proposes in his Bill, that up to £200 and £300 respectively jurisdiction should be given to County Courts in matters testamentary! Let me, however, read to the House what is the opinion of the Chancery Commission upon this point from a Report signed by the Solicitor General.

"We have considered," say the Commissioners, "the expediency of transferring the testamentary jurisdiction to the Courts of Common Law, but it appears to us that the machinery of those Courts is not adapted for the transaction of such business."

And there is a separate paragraph with respect to the County Courts. Now, after what I have said, I think the hon. and learned Gentleman need not have compelled me to speak in defence of myself with respect to a change of opinion. He proposes to sever the testamentary jurisdiction from the Court of Chancery. He proposes to

Sir James Graham

transfer up to a limited amount a contentious jurisdiction in matters testamentary to the County Courts. Yet in the Chancery Commission he opposed both measures, and, relying on his judgment, I was induced to join in that opposition.

Mr. MALINS said, he was opposed to the principle of the Bill, which he was determined to resist by every means in his power. He was both sorry and surprised that the hon. and learned Solicitor General should still cling to the vain hope of passing the Bill during the present Session. The Bill had not been circulated through the country, and those affected by it had not had an opportunity of considering its provisions. During the short time that he had been in that House, the present was the fourth Bill introduced on testamentary jurisdiction, each one differing from its predecessor; and, now, as the hon. and learned Gentleman opposite had tried to please everybody he had, as might have been expected, ended in pleasing no one. The hon. and learned Gentleman said that no two Members on the Opposition side of the House appeared to agree on anything; but assuredly there did not appear to be much unanimity on the other side. In 1854, the hon. and learned Gentleman put his hand to a Report declaring that the machinery of the Common Law Courts was not adapted to the purpose of testamentary jurisdiction, and stating that it was not expedient to confer any testamentary jurisdiction on the County Courts. Now, he (Mr. Malins) unlike the hon. and learned Gentleman, adhered to the opinion that no part of this business should be transferred to the County Courts. He was no party to any arrangement which had been come to with the hon. and learned Member for East Suffolk (Sir F. Kelly), and should continue to oppose the further progress of the Bill at the present period of the Session. For it was absurd to suppose that a Bill containing 157 clauses could, under such circumstances, be carried that Session. He would therefore suggest that the Bill should be now abandoned, and that the matter should be referred to a Select Committee next Session.

SIR ERSKINE PERRY said, he hoped the House would not agree to the suggestion of his hon. and learned Friend the Member for Wallingford (Mr. Malins), though he feared they would not get the Bill through Committee that Session. He (Sir E. Perry) was in favour of the local jurisdiction provided by the measure,

and thought that the County Courts had given great satisfaction. He would, therefore, support the proposition to give them jurisdiction in testamentary matters.

MR. HADFIELD said, that not one great measure for the good of the general public had been passed during the Session. The expenses of the Ecclesiastical Courts fell upon the bereaved classes of the community—they fell upon the weak. He called on the noble Lord at the head of Her Majesty's Government to say would he give the measure a real support by making it take precedence of all other Government business on Tuesday. The proposed measure was the greatest reform that ever the country produced in the law, and it was a shame that it should receive such obstruction.

Question, "That the words proposed to be left out stand part of the Question," put, and *negatived*.

Words *added*.

Main Question, as amended, put and *agreed to*.

Committee *deferred* till Tuesday next.

CHURCH-BUILDING COMMISSION BILL.

Order for Committee read.

Motion made and Question proposed, "That Mr. Speaker do now leave the chair."

MR. HADFIELD said, he should move that the Committee be deferred for three months. The Acts of Parliament on the subject amounted to nineteen in number; and so complicated and confused were they, that consolidation was out of the question. It was impossible, therefore, that at that hour of the night (half-past eleven o'clock) the House could give the matter the consideration it required; but there was, in his opinion, quite enough on the face of the present Bill to show that it was not calculated to effect the object that he, and those who thought with him, desired. The Commission had now been in existence thirty-eight years, and the legislation connected with it had, as he had just mentioned, got into such inextricable confusion that it was perfectly impossible to reduce it to any order or system. He had the strongest possible objection to the continuance of the Commission, which cost the country annually a large sum of money, without producing any adequate advantage.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve

itself into the said Committee," instead thereof.

SIR GEORGE GREY said, he thought that some misapprehension was entertained with respect to the Bill. Its object was to give effect to the Church-Building Acts, and to enable the Church-Building Commission to carry out its powers. It was intended originally that the Commission should be continued for ten years; but, in deference to the wishes that had been expressed on the subject, the Government had consented to a shorter period. The object of the Bill was with a view to the execution of powers and the performance of duties which were necessary to be performed under the Church-Building Acts. The hon. Gentleman seemed to think that there was only a very small sum in the hands of the Commission; but the funds remaining to be distributed amounted to £18,000, part of which was conditionally granted, it was true. Then there were sums repayable to the Commission, and there were many powers vested in the Commission. It was a question whether it would not be desirable to consolidate the Church-Building with the Ecclesiastical Commission, in order to avoid the continuance of the Church-Building Commission under existing Acts, and thus do away with a multiplicity of Commissions.

Question put, "That the words proposed to be left out stand part of the Question."

The House *divided*:—Ayes 159; Noes 9: Majority 150.

Main Question put, and *agreed to*.

Bill *considered* in Committee.

The House resumed.

Bill *reported* without Amendment.

The House adjourned at a quarter after One o'clock.

HOUSE OF LORDS,

Friday, July 4, 1856.

MINUTES.] PUBLIC BILLS.—1^a Metropolis Local Management Act Amendment (No. 2); Turnpike Acts Continuance.

2^a Evidence in Foreign Suits; Dwellings for Labouring Classes (Ireland); Exchequer Bills (£4,000,000).

3^a Divorce and Matrimonial Causes; Grand Juries; Survey of Great Britain, &c.

LEGISLATIVE COUNCIL OF INDIA.

THE EARL OF ALBEMARLE presented a petition from the Landholders, Planters, Merchants, and others interested in the agriculture, commerce, and trade of the lower Provinces of Bengal, praying for an

enlargement of the Legislative Council by the admission into it of persons selected from the Indian communities without distinction of race or creed; and to call the attention of the House to the exclusive and unsatisfactory constitution of the existing Legislative Council. The noble Earl said that the Legislative Council was composed entirely of the servants of the Crown and of the East India Company, thus excluding all the Natives and 10,000 resident Europeans. He doubted whether in the annals of the whole world a precedent could be found of a set of officials engrossing in this way the whole political and legislative functions of a vast empire. It was not too much to say that this Council was as remarkable for its ignorance and inefficiency as for its exclusiveness. Composed of a few officers of revenue and justice, it had to legislate for eight nations without any assistance from the Native Powers. A few weeks ago he had called their Lordships' attention to the legislation of this Council with regard to the people of Singapore. He had shown that their legislation had thrown the whole of the monetary system of the thriving settlements in the Straits of Malacca into a state of the utmost confusion. It was impossible, indeed, to conceive the absurdities and follies perpetrated by this Council. He had received a letter within the last few days from a gentleman in India, stating that no act promulgated by the Council had given satisfaction, and that their proceedings had excited dismay, disgust, and opposition from all parties. He had on a former occasion implored Her Majesty's Government to extend to India the privileges which had been successfully intrusted to Ceylon, Trinidad, and other Crown colonies—far inferior in numbers, wealth, and intelligence. The Act of 1853 was passed at a time when they did not know the East India Company as well as they did now, and he hoped Her Majesty's Government would see the necessity of introducing a measure at an early period for extinguishing the monopolising character of legislation for India, and making their measures more popular, more practical, and more useful.

Petition to lie on the table.

THE CHIMNEY SWEEPERS' ACT.

THE EARL OF SHAFTESBURY presented a petition from Edward Shipley Ellis, of Leicester, worsted spinner, praying for an amendment of the Chimney Sweepers' Act. The noble Earl said,

The Earl of Albemarle

there could be no doubt the Act was very grossly evaded in all parts of the country, although in the metropolis, containing a population of 2,500,000, it was duly observed. There was no reason whatever why the Act should not be observed in every part of the kingdom, and its non-observance entailed upon children great cruelty and suffering. He would not detain their Lordships by a long narrative of cases of disease and mutilation; it was sufficient to say that many children were crippled in early life and rendered wholly incapable of earning a livelihood. It was manifest that while these children were handed over to absolute and unqualified slavery, it was impossible they could receive the first rudiments of education, and that treatment of a most disgusting and cruel character must have a depressing influence on their moral feelings. He hoped the Government would pay attention to the prayer of the petition, and take into consideration the inefficiency of the Act.

Petition to lie on the table.

DIVORCE AND MATRIMONIAL CAUSES BILL.

Bill read 3^a (according to Order).

THE LORD CHANCELLOR said, he did not rise for the purpose of dividing their Lordships; but merely to move the omission of a proviso inserted in this Bill last evening, for the purpose of giving himself an opportunity of recording his opinion against that proviso. The proviso to which he alluded was the one providing that the party divorced should not marry the party with whom he or she had committed adultery. Now he thought that this clause was a mistake, and would encourage rather than discountenance adultery. It would be a great infliction on the guilty woman, but it would be very favourable to the guilty man. There had been in that House a standing order to the same effect as that proviso; but their Lordships seeing that its insertion in divorce Bills might lead to very injurious consequences to women, it had invariably been struck out. Such a clause would either encourage the adulterer to abandon the woman, marry some one else, and enter society, when probably he would be forgiven, and suffer nothing for his culpability; or it would lead to the guilty parties living together, not in a state of marriage. Guilty men might, in many instances, be glad of such a clause, as it would prevent them from doing that which, but for the legal enactment, feelings of honour might compel

them to do. Under these circumstances he looked upon the proviso in question as calculated to work much mischief; but as their Lordships had already expressed their opinions upon it, he would not divide the House on his Motion to omit it.

Amendment negatived; an Amendment made; Bill passed, and sent to the Commons.

CAMBRIDGE UNIVERSITY BILL.

House in Committee (according to Order).

Clauses 1 to 5 *agreed to*.

On Clause 6,

LORD LYTTELTON rose to move two Amendments, the first that the limit requiring the Members of the Council of the Senate should be elected from the electoral roll should be removed; and the object of this Amendment was to assimilate this Bill to the Oxford Act. The electoral roll in the Cambridge Bill corresponded with the Congregation in the Act relating to the sister University, and in that Act there was no limitation requiring that the Hebdomadal Council should be members of Congregation, but simply that they should be members of the Senate. It had further been suggested to him that there was a safeguard against the non-residence of the members of the Senate in the Oxford Act, which it might be well to adopt in the present case, and if he carried his Amendment in reference to the electoral body, he should move to add the proviso from the Oxford Act, which enacted that if any member of the Senate other than the Chancellor should reside at the University for a less period than fourteen weeks in any one year, his seat should be declared void and become vacant.

THE LORD CHANCELLOR opposed the Amendment, thinking it would involve unnecessary complications in the working of the Bill.

Amendment negatived; Clause *agreed to*.

Clauses 7 to 30 *agreed to*.

On Clause 31, providing that the Commissioners may frame University statutes,

LORD LYTTELTON said, he could not at all see why Cambridge should be treated so differently from Oxford in respect to the legislative powers given to the Commissioners. In the Oxford Act no such general powers were given, but by the Cambridge Bill the Commissioners might, for a period of two years, frame statutes for any of the purposes mentioned in the preceding clauses. In case the University itself should not have done so. Now, he did not propose to take away that power, but the

clause provided that only statutes passed by the Commissioners affecting certain gifts or endowments should be laid before the Council of the Senate. He thought this limitation ought not to exist, and that all the statutes framed by the Commissioners should be laid before this body. He therefore proposed the omission from the clause of the words which restricted the statutes to be so submitted to the Council of the Senate to such "as shall be for the altering or modifying any of the said trusts, statutes, or directions affecting any gifts or endowment held or enjoyed by the University, or by any professor, lecturer, reader, preacher, or scholar therein, or the said endowments of Lady Sadler, or of the offices of Christain Preacher and Christian Advocate, or of William Worts."

THE LORD CHANCELLOR opposed the Amendment.

After a few words from the Earl of Powis,

On Question, that the words proposed to be left out stand part of the Question, their Lordships *divided*:—Content, 26; Not Content, 51: Majority, 25.

Clause, as amended, *agreed to*.

On Clause 44 (That it shall not be necessary to make a declaration or take an oath on matriculating or taking a degree).

LORD LYNTHURST said, it was his intention to move an Amendment for restoring the clause to the state in which it was originally proposed to the House of Commons, by reinserting the words which had been struck out in Committee, excluding Dissenters from seats in the Senate of the University. He would remind their Lordships that the alteration was carried by a very small majority in a very small House. Their Lordships would understand the effect of the alteration. It was to admit Dissenters from the Church of England to the Senate—that was, to the governing body of the University. That body passed the laws of the University; it elected the Council of the University; it elected the officers of the University, and among other officers those connected with religion and with religious education. The question, therefore, was one of very great importance. They all understood the close connection that existed between the Universities and the Church of England. The whole ministration of the Church proceeded from the Universities. It was a most important thing, therefore, to take care that those who governed the University should be members of the Church of England. If their Lord-

ships adopted this change, they would be adopting a most important alteration; and they might depend upon it, it would have a decided influence upon the religion of the country. He would, therefore, earnestly recommend their Lordships to reinsert the words which had been struck out of the clause. He would repeat that the alteration was made in a comparatively small House, and was carried by a small majority, and carried by surprise. He thought it impossible that the Government, in the other House of Parliament, could sanction this change. His belief was, that the Government was on that occasion also taken by surprise. But with respect to the nature of the Amendment itself, he did not wish to rely upon his own opinion. He had been much struck with certain observations which he had understood to have been used in another place with regard to the Amendment which was there carried. An hon. Member had said that—

“The effect of the Amendment would be to confer upon Dissenters who took the higher degrees a right of interference in the affairs of the University and a vote for Members of Parliament. He feared that it would mar the usefulness of the Bill by exciting a feeling of hostility and alarm in the minds of those whose co-operation was necessary for the efficient working of the measure. It must not be forgotten that there was a strong connexion between the Church of England and the Universities, and a proposal to allow Dissenters to interfere in fixing the theological studies to be pursued in those Universities would excite great alarm in the minds of many persons. He opposed the Amendment, believing that it would tend to impair the practical usefulness of the Bill.”—[3 *Hansard*, cxlij. 1755.]

Now, with those observations he entirely concurred. They were observations ascribed, and he believed justly ascribed, to a Member of Her Majesty's Government (Mr. Bouverie), that Member being the Gentleman who had charge of the Bill in the other House of Parliament; and he thought, therefore, that, taking those observations in connection with the fact that the Vote in the other House of Parliament was obtained by surprise, their Lordships would agree to the restoration of those words in the clause which prevented Dissenters from taking any part in the government of the University of Cambridge which had been expunged in the other House of Parliament. The noble and learned Lord concluded by moving, as an Amendment, the restoration of certain words in the clause, the effect of which was to prevent Dissenters taking part in the government of University.

Lord Lyndhurst

THE LORD CHANCELLOR said, he would admit that it was true that such a restriction was contained in the Bill which was before their Lordships two years ago, and also that the Bill which had been introduced in the other House of Parliament during the present Session contained the words which the noble and learned Lord now wished to restore. For his own part, he should have been perfectly satisfied with the Bill if those words had been retained; but, as they had been struck out by the House of Commons, he ventured to submit to their Lordships, that unless it could be clearly shown that their omission created any serious evil, or gave rise to any real apprehension of danger to the Church of England, it would not be advantageous that upon a question of this description their Lordships should place themselves in antagonism with the other House of Parliament. [Lord LYNDHURST: There is no such omission from the Oxford Bill.] There was not; but still it would not be creditable to their Lordships to place themselves in antagonism with the House of Commons on the subject. It was only a fortnight back since an argument was pressed upon their Lordships which appeared to him to be germane to the present question. The noble and learned Lord opposite them occupied the attention of their Lordships for a length of time upon a question upon which he regretted to say that he was defeated, and the argument employed by the noble and learned Lord was singularly applicable to the present question. If it were not dangerous—and the noble and learned Lord argued that it was not—to the Christian legislation of the country to admit Jews into Parliament, surely it could not be dangerous to the Church of England character of the University of Cambridge to admit Dissenters into its Senate. For his own part, he believed that the admission of Dissenters would not be dangerous to the Church of England, but to the Dissenters themselves. It had been said by a popular writer—he did not know whether it was Dr. Aiken or Mrs. Barbauld—Dissenters never remained so during two generations, and they would be more likely to become members of the Established Church than to induce members of the Church to dissent from it.

THE EARL OF DERBY said, he had a great respect for the noble and learned Lord, and also for Mrs. Barbauld, but he did not think that her opinion could be relied upon to guide the decisions of their

Lordships in the present case. He regretted that the noble and learned Lord should have thought it necessary to rest his argument upon the speech made by his noble and learned Friend on a previous occasion, to the effect that the admission of Jews would not endanger the Christian character of the House of Commons. He could not tell whether his noble and learned Friend acutely felt the sarcasm, but he begged to remind the noble and learned Lord that there were many members of their Lordships' House who had not agreed in that opinion, and who, therefore, could consistently maintain that the exclusion of Dissenters from the governing body was necessary to preserve the Church of England character of the University. His noble and learned Friend (Lord Lyndhurst), on the present occasion, asked their Lordships to do, and the Government to do, that which both one and the other had declared would be most advantageous, and to adhere to a principle which they had established in the Oxford Bill. He could not conceive upon what ground the noble and learned Lord Chancellor could sanction the introduction of a Bill to amend the Oxford University Bill, and still less how the Government could reconcile themselves to adopting an important principle in one Session of Parliament, and then to be ready in the following Session to be guided upon the subject by a chance majority of the House of Commons. He would be most unwilling to see their Lordships in antagonism with the House of Commons, but upon an important principle their Lordships would be departing from their duty if they consented to abandon that which they felt to be right for any such consideration. It so happened that in the present instance, not only were the Government antagonistic to the views which they had expressed two years ago, and again during the present year, but the House of Commons had proved itself antagonistic to itself within the last two years. Two years ago, in the case of the Oxford Bill, the House of Commons decided by a large majority, and wisely decided, in favour of the admission of Dissenters to the University, but they decided also that they should not be admitted into the governing body. It was, in fact, the declarations repeatedly made in both Houses of Parliament to that effect, made and supported by the Government, which went far to reconcile the members of the University to the proposed change, because they felt that

in retaining the Church of England character of the University, they would receive the support of Parliament and of Her Majesty's Government. That principle had now been reversed in a thin House of 130 or 140 Members, and then by a small majority, although it had been originally affirmed by a large majority in a House of no less than 400 Members. He would implore their Lordships not to be guided in their decision by the feeling evinced by a stolen vote of the House of Commons, nor by the willingness displayed by the Government to play fast and loose, but to adhere to the principle which they had laid down. If the principle were right with regard to Oxford, it could not be wrong with respect to Cambridge; and he earnestly trusted that their Lordships would not permit the Government to go back from the ground which they had adopted, and, out of consideration for a trifling majority of the House of Commons, to induce them to shrink from that course in a manner not creditable to their consistency.

LORD MONTEAGLE considered that the Bill as it at present stood was more consistent with wise legislation than it would be if altered in the way proposed by the noble Lord (Lord Lyndhurst). The assimilation of system in the two Universities was not necessarily either expedient or probable. He maintained that from the earliest times there had been a wide difference between the University of Cambridge and that of Oxford with respect to Dissenters. In the days of Elizabeth, at Cambridge, a Dissenter was not excluded from taking his degree or becoming a member of the University. During the reign of James I. the authorities of the University were forced by a royal letter written from Newmarket to do that which they would not have done, except under the compulsion of a monarch who was not attached to the laws or liberties of England: long after that time the cases of Oxford and Cambridge entirely differed. The Dissenter, no doubt, had cause of complaint in both Universities; but at Cambridge the course of education was opened freely to him, and it was only upon his going up in the Senate House to take his degree that he was refused that evidence and outward recognition of the honour to which his industry and talent entitled him. But at Oxford the prohibition against Dissenters took effect *in limine*—it was applied when the candidate presented himself for matriculation—and the Dis-

senter, refusing the offered test, was not admitted to the benefits of the same education which he enjoyed at the sister University. At Oxford, education was refused to the Dissenter. At Cambridge, education was granted, but the degree was refused. This was under the old system. He contended, further, that there would be no analogy between the two Universities even if the noble and learned Lord succeeded in carrying his Amendment. By the Oxford Bill a Dissenter could take only a B.A. degree. By the present Bill, even as amended by the noble and learned Lord, he would be admitted at Cambridge to the M.A. degree, although he would be excluded from the privileges of the Senate. The question had been argued by the Lord Chancellor upon a right principle. Could the noble Lord show any objection to the admission of Dissenters to the Senate, except the cry of exclusion, on the grounds of religious faith, which of all cries was, in his opinion, the one most abhorrent from the constitution of England? What were they afraid of? There were above 3,000 members of the Senate, and it was absurd to suppose that any real danger could arise to the Church of England from the admission of a few Dissenters to that body. But this did not rest on theory. The experiment had already been tried. Mr. Pitt, in 1793, without objection from the then exclusively Protestant Parliament of Ireland, had recommended the admission of both Dissenters and Roman Catholics to the enjoyment of the degrees conferred by the University of Dublin; and he appealed to their Lordships whether, while the result of that experiment had furnished them with the best argument against the Ultramontane doctrines entertained by a portion of the Roman Catholic party in Ireland with respect to the system of united education, they had ever heard a complaint from the Irish University or the Church arising from the intermixture of the Roman Catholics with the Protestants?

THE EARL OF DONOUGHMORE remarked that Dissenters did not form part of the governing body of the University of Dublin.

LORD MONTEAGLE was aware of that, but that only referred to the scholarships, fellowships, and the privileges of the foundation. As Masters of Arts, the Dissenters and Churchmen were equal; they took the same degree as Churchmen, and voted for Members of Parliament in the same manner. But it was said, that by

Lord Monteagle

previous clauses of the Bill, they had admitted Dissenters to the advantages of the University by giving them halls. This was not a correct statement. Equality was not conceded. The creation of three separate halls was also questionable. He regretted that these halls had been established, because some inconveniences, if not dangers, might arise from the establishment of small Dissenting communities in the University, very possibly representing the extreme and exclusive opinions of that body; whereas if Dissenters were admitted fully, freely, and unreservedly to the Colleges and to the "University" itself, the tendency would be of Dissenters towards the Church, not of Churchmen towards Dissent. But he relied upon "living authorities," as well as on that of the great statesman whom he had named, and he begged their Lordships to observe that the argument which he was about to quote was not founded upon any temporary or trumpery ground, but upon eternal principles which were at all times equally just and true. The noble Earl opposite (the Earl of Derby), on the occasion of the presentation of the memorable Cambridge petition in the year 1832, said that he was confident that the Church would not be strengthened by keeping up the system of exclusion at the Universities. The noble Earl then expressed an opinion that it was not by exclusion, but by admission, that the interests of the Church were best supported. If those arguments were good then, they were equally good now. He begged to remind the noble Lord that the petition of 1832, entrusted to him (Lord Monteagle) in 1832, recommended the admission of Dissenters to a full and free admission to degrees. That petition was signed by the present Archbishop of York, the late Bishop of Lichfield, and by a distinguished Prelate now present, the Bishop of St. David's. It also bore the signatures of the Dean of Ely, and many other leading members of the Church and of the University. He could not understand how the noble and learned Lord (Lord Lyndhurst) could consistently advocate the admission of those who were not Christians to the Legislature of this country, and at the same time object to the admission of a Dissenting Christian as one of the Senate of the University of Cambridge. He could not admit that the alteration in the Bill which admitted Dissenters to the Senate on terms of perfect equality was carried in the other House by surprise, since the Amendment upon which the Vote was taken

had been printed and placed in the usual manner in the hands of Members, and in fact two divisions took place upon it. The House of Commons might have reversed its vote on the third reading, had it been carried by surprise; but, on the contrary, it was acquiesced in, without division, and the House unanimously passed the Bill with the Amendment. He implored their Lordships not to unsettle this question afresh by agreeing to the Motion of the noble and learned Lord. This was only continuing a cause of irritation, and it was certain that an imperfect concession would lead to a protracted struggle, which could only terminate by the concession of a just demand of that which was now unwisely refused. He would feel it to be his duty to take the sense of the House against the proposal of the noble Lord, and in favour of the Amendment introduced by the House of Commons, thus rendering the admission of Dissenters into the Senate final and satisfactory.

THE EARL OF DERBY said, that the noble Lord had quoted from a speech of his delivered twenty-four years ago, which represented him as having been opposed to the system of exclusion, and pledged to the question under their Lordships' consideration—namely, whether the Dissenters ought to be admitted to the governing body of the Universities. He adhered to the opinion he then expressed, that Dissenting youths ought not to be excluded from the benefits of a University education; and to the imposition of an oath on matriculation he had always objected; but that had nothing to do with the admission of the Dissenters to the governing body of the University; and if the noble Lord had read the whole of his speech he would have found that he proceeded to state that he would not enter upon details as to how far and in what manner it might be desirable to modify the admission of Dissenters—whether they ought to be admitted to all the honours and none of the powers of Government, and whether there should be any restriction with regard to the internal government of the University. Their Lordships would therefore see that he had carefully guarded himself then, as he guarded himself now, against declaring his opinion with respect to the modifications or relaxations under which Dissenters ought to be admitted to all the privileges of the University. He had always said Dissenters ought to be admitted to matri-

culatation and to the bachelor's degree; but he did not think they ought to be included in the government of the University, and in favour of that opinion there had been recorded during the present Session the vote and opinion of almost every Member of the Government in the House of Commons, including the Prime Minister himself.

THE BISHOP OF ST. DAVID'S said, he did not feel himself bound by his recollection of the petition to which the noble Lord (Lord Monteaule) had alluded, and which he (the Bishop of St. David's) had had the pleasure of signing, since he did not remember that one of the objects of that petition was to give the Dissenters a share in the governing body of the University. He desired to extend to Dissenters the fullest share in the honours of the University that was consistent with the principles of its constitution in connection with the Church of England. He did not think that a change so important should have been introduced into the Bill in the House of Commons in the manner which had been described. At the same time he did not believe that the clause, as it stood, would enable Dissenters at the University of Cambridge to exercise any injurious influence on the government of the University, because their numbers were very small and insignificant in proportion to the numbers of members of the Established Church. To the Dissenters, therefore, the boon in question was of the smallest possible value. The alteration proposed would not deprive them of that which would confer upon the Dissenters any substantial power, but it might infuse elements of discord and ill-feeling into the University. It was with very great reluctance, because he shrank from the appearance of withholding from the Dissenters any privileges which might be safely and usefully conferred, that he dissented from a change which he believed would be to them perfectly useless, while it would have a detrimental effect on the social state of the University, and give members of other Universities some right to complain.

On Question their Lordships *divided*:—
Content 73; Not Content 26: Majority 47.

List of the CONTENT.

DUKES.	MARQUESSSES.
Beaufort	Bath
Buccleuch	Camden
Cleveland	Exeter
Richmond	Salisbury
	Winchester

PEERS.	
Aberdeen	Melville
Bandon	St. Vincent
Bantry	BISHOPS.
Bathurst	Bangor
Beauchamp	Lichfield
Bradford	Salisbury
Chichester	St. David's
Delawarr	BARONS.
Derby	Abinger
Donoughmore	Bagot
Egmont	Bayning
Galloway	Boston
Hardwicke	Berners
Harrington	Churchill
Haddington	Clarina
Lanesborough	Clinton
Lucan	Colville of Culross
Mansfield	Denman
Morton	Delamere
Nelson	De Ros
Powis	Dynevor
Portarlington	Dunsandle
Shaftesbury	Feversham
Stanhope	Gray
Sheffield	Kenyon
Verulam	Lyndhurst
Wilton	Lyttelton
VISCOUNTS.	Redesdale
Bangor	Sandys
Dungannon	Southampton
Doneraile	Tenterden
Gage	Walsingham
Middleton	Willoughby de Broke
	Wynford

List of the NOT CONTENT.

The Lord Chancellor	Strangford
DUKE.	Sydney
Argyll	BARONS.
MARQUESSSES.	Broughton
Ailesbury	Byron
Headfort	Campbell
Lansdowne	Congleton
Sligo	Dacre
Westminster	Foley
EARLS.	Manners
Besborough	Monteagle
Granard	Panmure
Harrowby	Rivers
VISCOUNTS.	Saye and Sele
Falkland	Stanley of Alderley
	Wrottesley

Amendment agreed to.

Further Amendments made: The Report thereof to be received on *Monday* next.

House adjourned to Monday next.

HOUSE OF COMMONS,

Friday, July 4, 1856.

MINUTES.] New WRIT.—For Calne, v. the Earl of Shelburne, Steward of Hempholme.
PUBLIC BILL.—1° Divorce and Matrimonial Causes.
2° Incumbered Estates (Ireland); Revenue (Transfer of Charges).

3° Church Building Commission; Parochial Schools (Scotland); Militia Ballots Suspension; Deeds (Scotland); Procedure before Justices (Scotland).

LIABILITY OF CAB PROPRIETORS—QUESTION.

MR. D. WADDINGTON said, he wished to inquire of the right hon. Baronet the Secretary of State for the Home Department, whether his attention had been called to a judgment of the Court of Queen's Bench by which cab proprietors were held to be liable in respect of luggage lost in their cabs, and whether he intended to take any measure to relieve the cab proprietors from that liability?

SIR GEORGE GREY said, that the effect of a recent decision in the Court of Queen's Bench was to fix an unlimited liability in respect of goods conveyed by railway companies, and that the subject was then under the consideration of Government; but he was not at that moment prepared with any measure which would have the effect of affording relief to those companies.

COUNTY COURT JUDGES' SALARIES—QUESTION.

MR. GLADSTONE said, he had a question to put to the Chancellor of the Exchequer. A Bill now stood for Monday, to regulate the salaries of the County Court Judges. That Bill placed the salaries to the charge of the Consolidated Fund. He therefore desired to ask the right hon. Gentleman whether he would be able to lay on the table of the House an estimate of the amount which would be placed to the charge of the Consolidated Fund by the provisions of the Bill?

THE CHANCELLOR OF THE EXCHEQUER said, that he had no objection to lay on the table the best estimate the Government were able to form as to the charge on the Consolidated Fund of those salaries. The Bill would not be taken till Friday next, and before that time he would endeavour to lay the estimate on the table.

MR. ROEBUCK said, he hoped that the estimate would show the distinction between the amount paid by the Consolidated Fund and the amount paid by fees.

TROOPS IN THE WEST INDIES—QUESTION.

MR. SCHOLEFIELD said, he would beg to ask the hon. Under-Secretary for

War whether the three regiments—the 36th, 67th, and 69th, which have now been about five years stationed in the West India islands—were shortly to be relieved? The usual time for such service was only three years.

MR. FREDERICK PEEL said, that the delay had been caused by the necessity of concentrating the troops in the Crimea: The Government had no wish to detain those troops in the West Indies beyond their time. They were at present on their way to this country. It was impossible at present to say what would be their destination.

SALARY OF THE BISHOP OF NEW ZEALAND.

On the Motion that the House at its rising should adjourn until Monday,

SIR JOHN PAKINGTON rose, and said that he could not allow the Session to close without putting a question to the right hon. Gentleman the Secretary for the Colonies with respect to the subject to which he had already called the attention of the House on more than one occasion, namely, the salary of the Bishop of New Zealand. His object in putting the question was to ascertain what was the intention of the Government with regard to a state of things which they must allow was not on the whole a creditable one, and which to them, as it was to him, must, he was sure, be matter of great regret. In former discussions that had taken place upon the subject, blame had been thrown upon him in consequence of some words which fell from his lips in moving the Colonial Estimates in the year 1852; but he had never acknowledged the justice of that blame, and even supposing that in the first three weeks of his holding office, during which it was natural that his mind should have been much occupied by matters of varied interest, and whilst moving the Colonial Estimates, he had used expressions which applied to the Bishop of New Zealand, nevertheless, he had subsequently, over and over again, declared that it was not his intention to convey the meaning that had been subsequently put upon them. The facts of the case were these:—The Bishop of New Zealand was appointed by the noble Lord the Member for London (Lord John Russell) when the noble Lord was Secretary of State for the Colonies in 1839 or 1841, with the distinct intimation that his salary was to be £600 per annum. No promise was made, however, that that

income should be for life, though, according to all precedent, it might surely with fairness be understood to be for life. But within the last two years the income had been wholly stopped, and the bishop left without the means of support in his episcopal capacity. Reference was made by the right hon. Baronet opposite (Sir G. Grey), when at the Colonial Office, to the colony itself, but the colony refused to act upon it; and, if he remembered rightly, their refusal was given about the time that the new constitution for New Zealand came into operation, and the Government of the colony could hardly be considered in a settled state. How far that circumstance gave better hope of the result of any fresh reference to the colony he could not say; but he would submit to the Government whether it was creditable to the Church or honourable to the country that in consequence of a misunderstanding of the nature he had described a bishop should be deprived of the income he had a right to expect at the time of his appointment, and left without any means of supporting his position in the colony. If the right hon. Gentleman (Mr. Labouchere) could not hold out any prospect of the salary of the bishop being renewed, he (Sir J. Pakington) should certainly bring forward a Motion upon the subject early in the next Session. In conclusion, he wished to ask whether it was the intention of the Government to make any arrangement for restoring to the Bishop of New Zealand the moderate and necessary income of £600 per annum, which was provided for him when he first accepted the position he has so well filled, and was continued till the last two years?

MR. LABOUCHERE said, that he could not avoid confessing that the subject brought forward by the right hon. Member for Droitwich was one which he always approached with pain and concern, because he readily admitted that the Bishop of New Zealand had been hardly treated. But he was also quite sure that it was not the result of design on the part of any one who had had to do with the transaction, though that result was equally certain as if it had been; and he must repeat that it was impossible to review the proceedings without coming to the conclusion that, so far as the Bishop was concerned, he had been somewhat harshly treated. He must also confess that the pain he felt was aggravated by the circumstance that nothing could have been more disinterested or high-minded than the conduct of the Bishop

himself with regard to the whole matter. When applied to, and asked if he considered he had a right to the money on account of the manner in which he had been appointed, he answered, in writing, in these terms :—

"I admit the correctness of the statement which is reported to have been made by Lord John Russell, in the House of Commons, that no stipulation or agreement was made by me in 1841 respecting the amount or continuance of the salary; for I did not then, nor do I now, consider it to be a part of my office to make any such stipulation or agreement, either with the home or the colonial Government; and I must leave with Her Majesty's Government the responsibility of interfering with previous arrangements without making any provision for me."

Than such language nothing could be more becoming or suitable to the sacred station which the Bishop of New Zealand held, or more in consonance with the whole character and conduct of that right rev. person; and he (Mr. Labouchere) could assure the House that if he himself had come to the conclusion that he ought not again to put upon the Colonial Estimates the salary of the Bishop of New Zealand, which had now been omitted for three years, it was from no disrespect to the Bishop, nor any insensibility to the manner in which he had filled his sacred office during the time he had been in New Zealand, or the benefits which the community there had received at his hands; but he must remind the House of what were the real facts of the case. It was in 1841 that the bishopric of New Zealand was founded, and placed upon the Estimates with a salary of £600 a year. But it could not be said that any right to that salary was created by what then took place, although he was willing to admit that the Bishop had every reasonable expectation that it would be continued. In point of fact, the salary was continued until 1852, but from that period it was omitted from the Estimates. At that time the right hon. Gentleman opposite (Sir J. Pakington) filled the office of Secretary of State for the Colonies; and in referring to what he then stated it was not his (Mr. Labouchere's) intention to offer any personal taunt to the right hon. Gentleman, but to call the attention of the House to the fact that a distinct pledge was then given by the right hon. Gentleman that the salary should not again appear in the Votes. In a matter of that kind he did think that when the House was asked to agree to an Estimate with the distinct understanding that it should not be repeated, it was a

Mr. Labouchere

pledge to the House of Commons which ought not to be broken without the strongest and most justifiable reasons for doing so. Well, now, what was the language of the right hon. Gentleman in moving the Estimates in 1852? There was a sum of £10,000 proposed to be voted that year for New Zealand, and he found the hon. Member for Lambeth addressing the following inquiry to the right hon. Gentleman :—

Mr. W. WILLIAMS said, he was glad to observe that there was a reduction in this Vote as compared with previous years, and he hoped that they might look forward to a further and a considerable reduction next year. The charge of £600 for the Bishop of New Zealand, and £590 for chaplains and schools, he must, however, object to, on the ground that the people of this country ought not to be taxed for providing Bishops and clergy for New Zealand, or any other colony, and added, that unless a pledge were given that these items should not appear again, he should divide the Committee against them."—[3 *Hansard*, cxxii. 106.]

The House would observe that the special, and, indeed, only ground upon which his hon. Friend the Member for Lambeth objected to the Vote was that a certain portion of ecclesiastical expenditure was included in the amount :—

"Sir JOHN PAKINGTON said, he was decidedly averse to giving any distinct pledge; but seeing the reduction already made in the Vote, and that next year it would be further reduced, it was hoped, to £5,000, and that after that time probably no grant at all would be required on account of New Zealand, he would suggest that it would be hardly reasonable to divide against the amount now proposed."

Upon that—

"Mr. W. WILLIAMS said, that after the gratifying statement of the right hon. Gentleman, considering that the Vote was now reduced to £10,000, and would be only £5,000, after which no grant would be required, he would not press his Amendment."—[3 *Hansard*, cxxii. 106.]

After such observations as the above he could hardly conceive a more distinct pledge to the House of Commons, that the whole of the expenditure for New Zealand should in future be defrayed by the colony itself, and that the House of Commons should not be called upon to meet it out of the revenues of the mother country. He must also confess that, finding such a pledge had been given to the House of Commons by the Secretary for the Colonies three years ago, and that that pledge had ever since been acted upon, he assuredly should not feel himself at liberty to propose such a grant to the House of Commons, except for the strongest reasons—unless, indeed, it were a gross and palpable breach of

faith to do otherwise. In previous discussions on the subject, allusion had been made to the case of North American Bishops; but he did not consider that they stood at all on the same footing as the Bishop of New Zealand. The whole of the Vote for New Zealand to which he had alluded was made on temporary grounds; and the House was told that New Zealand would be a self-supporting colony, and no charge to this country; whereas the ecclesiastical establishments in America had always been defrayed out of the revenues of the mother country. Every effort had been made by the Government to induce the Legislature of New Zealand to continue the salary during the lifetime of the existing Bishop; but whilst the Legislature spoke in the most respectful terms of that right reverend person, and expressed a high sense of his merits and services, they stated that as a matter of principle they did not feel that they ought to support the Bishop of one religious denomination to the exclusion of another. He had now stated the reasons why he was afraid he must return a negative reply to the question of the right hon. Gentleman; but he could not sit down without observing that he should be astonished indeed if the Bishop of New Zealand were in any way a sufferer by the refusal of that House to continue his salary. For what was going on in the colony at the present moment? By the spontaneous efforts of Churchmen in New Zealand they were absolutely founding new bishoprics. It was only the other day that he himself advised the Crown to assent to the establishment of a new bishopric in the district of Canterbury, for which an endowment of £500 a year had already been secured from private sources alone; and there was now a proposal before him for constituting another see for the district of Wellington, where the endowment was equally liberal and secure. He could not imagine, therefore, that Churchmen in New Zealand would be guilty of the inconsistency and injustice of providing for New Bishops before they had made provision for the old; and he should hope there was no fear of that excellent prelate, Dr. Selwyn, suffering in pecuniary circumstances from the state of things which had arisen; but with regard to the question of the right hon. Gentleman (Sir J. Pakington) having stated the particulars of the case, he could only say, and he said it with the deepest regret, that he could not hold out any expectation of his

advising that the salary of the Bishop of New Zealand should again be placed on the Estimates.

MR. GLADSTONE said, that the manner in which his right hon. Friend the Secretary for the Colonies had spoken of Dr. Selwyn was as worthy of the object of his commendation as of his own character and station; but he had not a word of objection to urge against the course taken by Her Majesty's Government up to that period; because he himself was responsible for having concurred in the propriety of that course. Undoubtedly it was the case, and there should be no mistake about it, that the difficulty in which the Government of Lord Aberdeen was placed in reference to the subject arose entirely and exclusively out of the effect of the words which were understood to be used by the right hon. Baronet (Sir J. Pakington) at the time he was Secretary of State for the Colonies. They construed the words used by the right hon. Baronet—whether intended by him or not was obviously not the question—as constituting a distinct pledge to the House of Commons that the Vote for the salary of the Bishop of New Zealand should not be renewed, and it certainly appeared to them that they would not be justified in departing from that pledge. If the Government had at the period he (Mr. Gladstone) was in office as Chancellor of the Exchequer placed a Vote upon the Estimates, and had used their influence as a Government to procure the assent of the House of Commons in the ordinary manner to that Vote, then he thought that while they might have been doing what was most desirable in regard to the Bishop of New Zealand, they would have given fair ground of complaint to the House of Commons on account of the manner in which the pledge—the involuntary pledge, perhaps—of the right hon. Gentleman would in that case have been violated. He did not see, then, though there was something to regret, that there was anything to find fault with on the part of the Government; because he held this sound parliamentary doctrine, that there were no words of higher authority than words used by a Minister of the Crown when giving answers, in his place, to Members of the House of Commons. The House of Commons was accustomed to repose the most implicit reliance in such verbal assurances; and cases occurred every year in which the Votes of that House were determined by the simple effect of those verbal assurances,

given at that moment. Therefore they ought to be considered as of the highest authority, and the pledge they involved ought to be strictly believed. But how stood the case? Grant that the right hon. Baronet the Member for Droitwich was not, at the moment, fully aware of the breadth of the engagement which his words might be supposed to imply—grant that the Government which succeeded that of which the right hon. Gentleman was a Member were bound to refrain from using their authority to procure the continuance of the Bishop's salary, did the case stand in a position that was satisfactory to the Members of the House of Commons? Both the right hon. Gentleman and himself now spoke in the capacity of independent Members of that House; but the testimony on both sides of the House was the same. The right hon. Gentleman said that the state in which the question now stood was not altogether honourable to the House of Commons, whilst his right hon. Friend the Colonial Secretary, in following him, commenced his remarks with an emphatic assertion that the Bishop of New Zealand had been "harshly treated." Now, without determining where the blame might rest, he fully felt the pressure of those declarations that between them all the Bishop of New Zealand had been harshly treated. Let it be granted that Dr. Selwyn left this country without any agreement or stipulation. Well, so he did; but, as his right hon. Friend the Colonial Secretary had observed, he had a fair title to expect the continuance of his salary. Now, what was the rule upon which Parliament acted with regard to the recipients of public money? It did not inquire whether they had a written covenant or a positive legal right; but wherever there was a moral claim there Parliament invariably discharged it in the fullest and most liberal manner. The question was, then, whether the House of Commons, not being under the influence of a Government, or of pledges of any sort, but as a collection of English Gentlemen sitting there to discharge their duties, could, or could not, with respect to those declarations and to the general rules of administration, refute and contradict what had been observed by the right hon. Baronet (Sir J. Pakington)—namely, that the present state of things was not honourable to the House of Commons: besides that, what had been said by his right hon. Friend the Colonial Secretary?—why, that the Bishop

Mr. Gladstone

of New Zealand had been harshly treated. Now, with regard to the provision which the Colonial Secretary thought the Churchmen of New Zealand ought to have made for the Bishop, he was afraid that that provision did not exist, but he must say that it weighed upon his conscience, as a Member of the House of Commons, that the subject under consideration remained in the position in which it now did. It seemed that no remedy could be applied to it without the general assent of that House. Speaking, therefore, in his individual capacity, he would say that it would be more satisfactory, and at the same time more consonant with the principles of justice, and in accordance with the rule upon which Parliament usually acted, if they encouraged the Government by their general assent to propose a renewal of the grant, than by holding the Government down to the letter of the pledge, which was apparently unconsciously given in the first instance, and since reluctantly acknowledged, they permitted the existing state of things to continue, and left the Bishop of New Zealand entirely dependent on private and voluntary contributions for his support.

MR. W. WILLIAMS said, that it had been stated that Bishop Selwyn would rather labour with his own hands to obtain a living than apply to the House of Commons. If he did so, he would only do what better men than himself—what the apostles themselves had done before him. They, too, had laboured with their hands. He could not see why the people of New Zealand should not support their own Bishop. The colony had always been understood to be a self-supporting one. It was founded at a considerable expense to this country. That expense had not been thrown away, and the colony was now in a most prosperous condition, and was certainly in a condition to support its own ministers. He hoped that House would never be called upon to support so unchristian a proposition as that for making the people of England pay for a Bishop of New Zealand.

MR. DISRAELI said, that he did not consider that the present moment was a convenient one to enter into any discussion of the principles on which the Colonial Church was formed or how it should be supported, and he should not, therefore, touch upon that subject. With regard to the incident in question, however, he looked upon it as a case which ought to be consider-

ed entirely in reference to the claim of the individual. His impression was—though he had not then the opportunity of consulting the documents, as they were in the Secretary of State's office—that the post of Bishop of New Zealand had been accepted by the eminent divine who held it on the clear understanding that a decent provision was to be made for the support of the Church in the colony. He would ask, therefore, assuming that to be the case, whether the House of Commons had not entered into an engagement on the subject? and that being the case, he could not help thinking that whatever might be the opinion of hon. Members on the general question of Church endowment, if such an engagement was entered into, involving as it did such a peculiar responsibility, it ought to be fulfilled. The only real obstacle to a large and liberal interpretation of the question was, it appeared, a pledge which it was alleged had been given by his right hon. Friend the Member for Droitwich when he held office. Now, he (Mr. Disraeli) had, however, no recollection of any words which fell from his right hon. Friend that would bear such an interpretation. He was much surprised, therefore, to hear it alleged as such against his right hon. Friend. He found, however, on the contrary, in the only authentic record of the proceedings of that House which was to be had, that his right hon. Friend had said, at the very outset of his remarks, "that he was averse to giving any distinct pledge on the subject." His right hon. Friend, therefore, could not be held as having given a distinct pledge when he professed his aversion to it at the very outset. He was therefore surprised to hear the right hon. Member for the University of Oxford (Mr. Gladstone) speak of a "distinct pledge." But his right hon. Friend, in his subsequent observations, stated that "probably, after the next year, no further grant would be required." Now "probably" is one of the most vague expressions in the language, and certainly could not by any process be converted into a distinct pledge. Therefore he (Mr. Disraeli) could not but think that, as regarded his right hon. Friend's observations, it was a most severe and erroneous interpretation to charge him with having made a distinct pledge to Parliament on the subject. Still he (Mr. Disraeli) thought that even if his right hon. Friend had given the pledge, it ought to be no obstacle to a large and

generous dealing with the Bishop of New Zealand. It was, as he had stated, a case which should be considered in the light of an engagement as between Parliament and the individual in question. That being so, he must protest against the introduction into its settlement of questions of politics or of Ecclesiastical Government. In his opinion Her Majesty's Government should consider it in that spirit; and he therefore contended that the observations of his right hon. Friend in 1852, even if they were made as alleged, should be construed into a distinct pledge as against the arrangement.

SIR GEORGE GREY said, he had no desire to oppose the consideration of any well-founded claim which the Bishop of New Zealand might have; but he must correct the misapprehension of the right hon. Gentleman opposite (Mr. Disraeli) that the only obstacle to the renewal of the grant was a casual expression dropped in debate, without sufficient consideration, by the right hon. Baronet the Member for Droitwich (Sir J. Pakington). When he (Sir G. Grey) became Colonial Secretary, his attention was called to the Estimates which were prepared in the Colonial Office in the year 1852, when the right hon. Gentleman was Chancellor of the Exchequer, and the right hon. Baronet was Secretary for the Colonies, and which were signed by Lord Desart as Under Secretary. The Estimate for New Zealand amounted to £10,000 made up of several items, one of which was £600 for the salary of the Bishop. To that Estimate there was appended a note which was in exact accordance with what the right hon. Baronet was reported to have afterwards stated in that House, and which had been added in the Colonial Office by the directions of the right hon. Baronet, transmitted to the Treasury, and by the Treasury submitted to Parliament with the Estimates, in order to induce Parliament more readily to agree to the Vote. That note was in these terms, "This Estimate is less by £10,000 than that of last year. The Governor represents that this reduced amount is required for the present year, but it is proposed that it should be reduced to £5,000 next year, after which it is hoped no further aid will be needed." He (Sir G. Grey) was willing to admit that the expression of a hope did not amount to a distinct pledge, but there was no exception made with regard to the salary of the bishop, and the expectation was held out,

that if the revenue of New Zealand were sufficient, none of the sums included in the Vote would, in future, be asked for from Parliament. In according with that distinct, he would not say pledge, but intimation, the succeeding Government thought it its duty not to place the salary of the Bishop of New Zealand upon the Estimates, because, by doing so, it would have broken faith with Parliament.

MR. ROEBUCK said, several speakers had observed, that it was dishonourable in the House of Commons to do as they had done. Now let them see who it was that was bound to pay the money. The person who appointed the Bishop was the noble Lord the Member for London (Lord J. Russell), and then he came down to the House and asked the House to pay the salary, and the House acceded to it for one year. It appeared to him, therefore, that the person who appointed the Bishop was the person really responsible, and, consequently, he would call upon the noble Lord the Member for London to pay hereafter the salary of the Bishop. But the question went much further. The right hon. Gentleman (Mr. Disraeli) said, he did not want the question of the Colonial Church to be discussed with the question now under consideration, but he (Mr. Roebuck) apprehended that they were obliged to discuss it. The Colonial Church was increased in this way: there were certain persons in this country who wanted to see the English Church spread over the globe, and they would effect that if they could by making the Colonies pay; but if the Colonies would not pay, this country must. The Colonies, it appeared, would not pay, and this country would not pay either. He was glad to hear that the words of the right hon. Gentleman the Member for Droitwich had been acted upon by successive Governments. It was to be presumed that the Minister in his place endeavouring to induce the House of Commons to pass an Estimate knew the words which he was employing, and he did not think any Member of that House would put the interpretation upon the words of the right hon. Member for Droitwich that had been put upon them by the right hon. Member for Buckinghamshire (Mr. Disraeli). The right hon. Gentleman thought that the colony of New Zealand would pay, but he was mistaken, and because a Minister of the Crown chose to appoint a Bishop of New Zealand, it was assumed that the

Sir George Grey

House of Commons would vote his salary out of the taxes of the country.

MR. HILDYARD said, he rose to make a suggestion which, if acted upon, might prevent any practical injustice being done to the Bishop of New Zealand. That individual was one of the first scholars that the University of Cambridge had produced, he was a most excellent divine, and possessed every virtue which ought to adorn a Christian prelate. It was scarcely to be expected that the colony of New Zealand should have the means of rewarding so eminent a person in a manner suitable to his deserts, but England could well afford to do so; and though there might be some difficulty in continuing to him the salary originally granted, it was to be hoped that the Government would bear his claims in mind, and not neglect to requite them when the opportunity arose.

Subject dropped.

UNIVERSITY OF EDINBURGH— QUESTION.

MR. COWAN said, he wished to inquire what was the intention of the Government with regard to the professorship of military surgery in the University of Edinburgh? The office had become vacant upwards of six months ago, through the lamented death of Sir John Ballingall, and no steps had been taken as yet towards the appointment of a successor. The chair left vacant by the death of Sir William Hamilton, he understood, was to be filled up in about a fortnight. He would take that opportunity also of bearing testimony to the devoted heroism of Dr. Mackenzie, who perished in the Crimea after the battle of the Alma. He hoped the condition of the University of Edinburgh, justly prizing, as it did, its medical school, would be considered by the Government.

MR. FREDERICK PEEL replied, that the chair of Military Surgery would be retained, and the authorities of the University had made provision for a course of lectures pending the appointment of a new professor.

IMPROVEMENT OF LANDS COMMIS- SIONERS—QUESTION.

LORD LOVAINE said, he wished to ask a question of the hon. Gentleman the Secretary of the Treasury to the following effect:—A sum of £5,000 had been applied for by the town council of Alnwick for the improvement of lands belonging to

the corporation, and the improvement was commenced accordingly. But the town council found it impossible to get the money from the Treasury, because the Commissioners would not certify, though a year and a half had elapsed. The result was, that proceedings had been taken against twenty-three members of the town council.

MR. WILSON said, that in so far as certain improvements referred to in a petition from the freemen of the town of Alunwick came within the terms of the Act which authorised advances for purposes of drainage, the Drainage Commissioners would be prepared to lend money to the amount of £5,000, but this transaction was limited to arable lands, and did not extend to pastures.

PAYMASTERS OF THE IRISH CONSTABULARY.

MR. SERJEANT O'BRIEN said, he now rose to call the attention of the House to the case of the late paymasters of constabulary in Ireland, and to the compensation allowed to them on the abolition of their office. The office had been created in 1836, when eighteen paymasters were appointed at salaries of £200 a year each, and a considerable expense was incurred by the gentlemen appointed, as the regulations required they should reside in the respective counties to which they were appointed. Their offices were, however, abolished in 1851, by which means a considerable saving was effected to the public revenue; but as they had been led to expect that their situations would be permanent, and as, moreover, they were removed for reasons wholly irrespective of their own conduct or fitness, it was obvious that they were entitled to liberal treatment at the hands of the Government. In 1850, when the abolition of these offices was in contemplation, a correspondence on the subject of the claims of their occupants passed between the Irish Government, the Lords of the Treasury, and Lord Clarendon, then Lord Lieutenant of Ireland, and that noble Lord had recommended that they should be liberally dealt with. Sir Duncan M'Gregor also had recommended that the gentlemen so situated should get £100 a year each. The recommendation of Lord Clarendon, however, through Sir Thomas Redington, then Secretary to the Lord Lieutenant, was that they should get, in proportion to their former salaries and length of service, the sums respec-

tively of £150, £120, and £100, per annum each. The sums given to them nevertheless were—those officers who had served fourteen years and a half £42 per annum, instead of £150; and those who had served ten years £36 per annum; while those who had served less than six years got no annual payment, but were paid gratuities respectively of £104, £77, £63, £51, £34, and, as if the Treasury meant to try every possible scale, the last got nothing at all. That was not the way in which the Government had dealt with the Irish Poor Law Inspectors at the commencement of last Session, for those gentlemen had got £400, £330, and £200 a year, upon salaries of £700, £500, and £300, their services ranging from three to fifteen years. There was a provision in the Act of 1851, abolishing the office of paymaster of the Irish Constabulary to the effect that the retirement should be regulated by the Superannuation Act of 1834; and in that Act there was also a power given to the Treasury to award compensation even beyond the scale laid down in the Act. He was surprised that the Treasury should, in this case, not have exercised the power given by that Act in a manner more favourable to claims of those gentlemen whose diligence and good service had been so highly commended by the Irish Government in the correspondence which took place on the subject. Again, in reference to the retirement of four gentlemen who had held office under the Metropolitan Board of Health, the Government had proposed, and the House had granted, allowances to two of them who had served eleven years, and whose salaries were £1,000 a year each, of £800 a year each, and to two who had served nine years £500 a year each. There was abundant authority in the cases he had referred to, and in the Estimates, to prove that persons whose claims were not stronger than were the claims of the parties for whom he pleaded had obtained compensation. He only asked the House to apply to those gentlemen, without being unmindful of the public service, the same principle as had been applied to so many other similar cases. He hoped Government would, under the circumstances, give an assurance that they would reconsider their decision, and not conceive themselves bound by what had taken place.

SIR DENHAM NORRIS said, he thought the case of the paymasters of constabulary was exceedingly hard, and

showed the absolute necessity of administrative reform. It was impossible that the civil service of the country could be conducted in a satisfactory manner unless all classes of *employés* felt that if it were found necessary to abolish the offices which they held, they would be dealt with upon the same principle. When the office of paymasters of constabulary was established the appointments were regarded as permanent; while the office of Poor-Law Inspectors, which was subsequently established, was regarded as merely temporary. The office of paymasters of constabulary had been abolished, and the number of Poor Law Inspectors had been considerably diminished; but those who had held what had been regarded as permanent offices did not receive as compensation more than one-sixtieth or one-seventieth of their salaries, while Mr. Dillon, who had been only three years a Poor-Law Inspector, at £500 a year, had retired upon half his salary. He considered that such inequality of treatment in the case of public servants could by no means be justified.

VISCOUNT MONCK said, it was not in his power to hold out any hope that the Treasury, as at present constituted, would reverse the decision which had already been given upon the subject, and he thought great public inconvenience would arise if one Board of Treasury were to reverse the decisions of their predecessors without very good reasons. In 1848 provision was made to enable this class of officers to take a pension on retiring, and the option was given them of placing themselves under the operation of the Act by which the pension was provided. Those individuals whose case was now before the House distinctly refused to be placed under the provisions of the Act, but two years afterwards those offices were abolished, and the Treasury then agreed to give them such compensation as they were fairly entitled to. It was rather too much for those gentlemen, after having refused to avail themselves of the provision for a pension, to come forward now and complain that they had not received greater consideration. He trusted the House would support the Treasury in this instance on a matter which affected the expenditure of the public money.

LORD NAAS said, the noble Lord treated the question as one of superannuation, whereas the question was one of compensation for the abolition of their

offices. It was true that in 1841 those gentlemen applied to be put on the superannuation fund and were then refused, but seven years afterwards the offer was certainly made to them, but coupled with such conditions as to induce them to decline it.

CAPE OF GOOD HOPE—QUESTION.

MR. LIDDELL said, he wished to put a question to the noble Lord at the head of the Government, of which he had not had an opportunity of giving him notice, but which he hoped he would pardon him for putting, considering the personal interest he took in the matter. He alluded to the sinister rumours which had appeared in the morning journals respecting the state of affairs at the Cape of Good Hope; and he wished to ask whether the noble Lord considered those rumours correct, and whether any orders had been given to reinforce the military stations on the frontiers, which he could say, from personal knowledge, were very slenderly provided with troops.

VISCOUNT PALMERSTON: Certainly, Sir, my right hon. Friend the Colonial Secretary received yesterday some accounts which led to the apprehension that disturbances might occur on the frontiers, such as the hon. Gentleman has alluded to. I do not understand that there was any actual outbreak, and such steps had been taken as would guard against the possibility of the recurrence of anything unpleasant. I do not understand that the accounts contain any reports of actual occurrences, but simply that there had been indications of disturbances between the Dutch settlers and the natives, and there was an apprehension that those disturbances might extend to the English settlers.

MILITIA REWARDS—QUESTION.

SIR HENRY WILLOUGHBY said, he wished to know what was the specific rule for distributing rewards to the Militia regiments which had been disembodied? Applications had been made to him, stating that officers and men had not received the usual gratuities.

VISCOUNT PALMERSTON said, if the officers and men of any regiment had not received the gratuities they were entitled to, it must be owing to some mistake, and the proper course would be to make application to the Department of War. He was not aware that any distinction had been established that would shut out any

one regiment from the largess which it had been agreed to give to the Militia.

Motion agreed to.

House, at its rising, to adjourn till *Monday*.

CHURCH-BUILDING COMMISSION BILL.

Order for Third Reading read.

MR. HADFIELD said, he wished to point out the necessity for consolidating the whole of the Church-Building Acts. At the same time he strongly objected to the compensation clause which the Bill contained. Originally the Commission was intended to continue only ten years, but the time had extended to thirty-eight years. Nevertheless, it could hardly be asserted that the parties who had served under the Commission received their appointments under the expectation that at the expiration of the Commission they would be entitled to compensation for life. He thought that if the Commission were to cease altogether, that would be the best thing that could happen.

SIR GEORGE GREY said, he would admit that it was desirable that the numerous Church-Building Acts should be consolidated, but the present Bill could not operate to obstruct such consolidation.

Bill read 3^o.

On the question that the Bill pass,

LORD ROBERT CECIL said, he objected that certain payments which had formerly been made out of the Consolidated Fund would now be placed by the Bill on the annual Estimates in the shape of compensations. He should, therefore, move the omission of the words transferring those charges to the annual Estimates.

MR. HADFIELD said, he thought it would be better to move the omission of the clause altogether.

MR. W. WILLIAMS said, the way to perpetrate jobs was to get a Bill passed through the House at two o'clock in the morning, and to afford no time for the provisions inserted in the Bill to be overhauled. His view of the salaries in the Bill was, that such matters ought to come annually under the review of the House.

MR. SPOONER said, he wished to know why the persons to be compensated were to have compensation, when they took their situations with the full knowledge that the places were to be only temporary?

SIR GEORGE GREY said, the persons to be compensated had been servants of the Commission for a number of years, and it was, therefore, thought that long

service entitled them to compensation. With regard to the salaries not being brought under annual revision, the reason was that they were never charged on the Consolidated Fund; and it was thought to be more in conformity with the established rule to transfer them to the Estimates.

Bill passed.

PARTNERSHIP AMENDMENT (No. 2) BILL.

Order for Committee read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

MR. MUNTZ said, the more he saw of the Bill the worse he thought of it, for he was satisfied it was one of the worst measures that had ever been introduced into Parliament. Instead of being called a Partnership Amendment Bill, it ought to be called a Bill for the encouragement of fraud, collusion, and robbery. Who was it that wanted the Bill? Certainly not the commercial community. He saw no reason why they should be dragooned into a Bill by the Board of Trade which was not wanted. If he were to take upon himself the business of a Chancery reformer, he would be called a conceited fool for his pains, and he did not see much difference between that and the Board of Trade undertaking to legislate in matters about which it knew nothing at all. A man in business, who was in bad odour and had little credit, could not do much harm; but if he got somebody of whom the world was to know nothing, to lend him capital secretly, he would be able to get credit on the strength of it, and then, the capital being quietly withdrawn, he might suddenly break and cheat his creditors in the most barefaced manner. He was satisfied that the commercial world did not want the Bill, and he should therefore move that it be committed that day three months.

Amendment proposed to leave out from the word "That" to the end of the Question, in order to add the words, "This House will upon this day three months resolve itself into the said Committee," instead thereof.

MR. WILKINSON said, he would remind the hon. Gentleman that all the great reforms which had been effected of late years had been carried in opposition to persons of experience, and therefore he did not think the hon. Gentleman's remarks on the Board of Trade were well

founded. Free trade and the penny post had been opposed, the one by the growers of corn, and the other by the officials of the Post Office; but both measures had proved of the greatest benefit to the community, notwithstanding the predictions of those whose opinion might have been supposed deserving of attention. He thought the Bill would turn out to be a most valuable measure, and in his belief it was one generally desired by the trading community.

MR. BIGGS said, that so far from agreeing with the hon. Gentleman (Mr. Muntz), he thought the Bill the most valuable one of the Session; and he would appeal to the House whether there was not a universal feeling in its favour. He regarded the present law as antiquated and semi-barbaric, and he must consider the Birmingham school very doubtful authorities in monetary matters.

MR. SPOONER, for his own part, had not conversed with any person on the subject of the Bill who had not denounced it in the terms in which it had been so properly described by his hon. Friend the Member for Birmingham (Mr. Muntz). He might illustrate the working of the measure by supposing a case which was very likely to occur if the Bill became law. Three persons might enter into partnership, two openly, the third secretly. The first two, it might be, had no money, and the funds were advanced by the third, who thus gave the concern a status and a credit which it could never without his assistance have obtained. The secret partner, having free access to the books, might discover that the trade was not going on well, and cautiously withdraw his capital little by little. In that way he might get back all he had advanced, in addition to the sums he had withdrawn, in the form of imagined profits. The partnership would then collapse, and the creditors who had been seduced into trusting the firm on the faith of appearances, arising from the advances of the secret partner, would thus be defrauded of their money. If the House went into Committee, he should propose a clause compelling any secret partner to refund all he had withdrawn during the three years previous to the insolvency of the firm of which he had been a member.

MR. ROEBUCK said, he could not consent to the rejection of the Bill in so summary a manner. To the general principle of the Bill, by which it was sought to

enable a man to obtain a capital by subscriptions from various quarters, he entirely assented; but there were one or two precautions which he thought were absolutely requisite. The evils apprehended by the hon. Gentleman opposite (Mr. Spooner), that a man might improperly obtain a reputation and credit by trading upon a loan, might be guarded against by requiring all loans made under the Act to be registered in some public record, a provision which might easily be inserted in Committee. If such a clause as this were adopted they would have all the benefits of combination without any danger to the public; and he should, therefore, support the Motion for going into Committee.

MR. GLYN said, that if he had the slightest idea that the right hon. Gentleman (Mr. Lowe) would assent to the introduction of any such precaution as that suggested by the hon. and learned Member for Sheffield (Mr. Roebuck), he would not support the Amendment; but as the Bill now stood, and remembering the evidence taken before the Committee of 1850-1, he must avail himself of every opportunity to get rid of what, in his belief, was a most obnoxious measure. Although that Committee made no Report except to recommend the issuing of a Royal Commission, yet the evidence taken before it was of great value, and fully established three points. The first point was, that the repeal of the usury laws had rendered it necessary for the protection of persons in trade that there should be an alteration of the laws of partnership; the second was the necessity of an alteration of the bankruptcy laws contemporaneously with that of those of partnership; and the third was that, while it was right that persons dealing in money should be allowed to make contracts exactly like persons dealing in other articles, that permission must be accompanied with a provision for the necessary publicity of such contracts. A great deal had been said during the progress of the Bill relative to the difficulties and frauds of legislation; but he was not aware of any other means by which that publicity could be attained. None of the points established by the evidence had been provided for in the Bill. Another reason why he objected to the further progress of the Bill was that, in moving the second reading, the right hon. Gentleman (Mr. Lowe) said that the proposed measure was not to be considered as an alteration of the law of partnership, but only as a remedy

for something which had accidentally occurred from a legal decision with that law, to which he (Mr. Glyn) could not assent; and that if he were encouraged, he should be happy to bring in an extended Bill upon the subject. [Mr. LOWE: Would the hon. Member move for a Select Committee?] To move for a Select Committee was the very thing which he (Mr. Glyn) wanted and had recommended, but if he were prepared to take that course, why should the right hon. Gentleman endeavour to force upon the House a measure of which he (Mr. Glyn) had heard no commercial man express a favourable opinion? The right hon. Gentleman had not made the slightest provision for the summary punishment of frauds. In all countries where the law at all resembled the proposed measure, as in France and Holland, there were very stringent bankruptcy laws; but, while introducing the Bill now before the House, the right hon. Gentleman proposed to leave the bankruptcy laws of the country precisely as they were, although their stringency was being daily diminished. He hoped that the House would take the matter into its own hands, and would induce his right hon. Friend to postpone the measure to another Session.

MR. MALINS said, he regretted that his hon. Friend the Member for Kendal (Mr. Glyn), who had hitherto supported the principles of limited liability, had made a retrograde movement, and was now opposed to them. Notwithstanding what his hon. Friend had stated, he would assure the House that he had scarcely met anybody who was not in favour of limited liability, and he would remind his hon. Friend that that principle was supported by three out of five of the eminent commercial men who were examined before the Committee of 1850-51. The usury laws having been repealed, a man might advance money for others to trade with at the rate of 20, 30, or 100 per cent, might stand in the place of a creditor, and might take, not only the property, but the persons of his debtors, leaving the other creditors to whistle for their money, not once only, as in the case supposed by the hon. Member for North Warwickshire (Mr. Spooner), but ten times. Now, all that the Bill under consideration proposed was, that the money might be advanced, not at a fixed rate of interest, but in consideration of the reception of a certain share of any profits which might be made by the trading. Nothing could be more reasonable than such a proposal.

The Bill would put an end to the contradictions and inconsistencies of the present system, and would not fail to operate beneficially on the general interests of commerce. It was no uncommon thing for a trader to employ a confidential person to carry on his business for him, yet such was the absurdity of the law as it now stood, that if that servant received a share of the profits he was a partner, whereas if he received a sum equivalent to a share in the profits he was not a partner. The distinction, therefore, was preposterous, and the Bill under consideration very properly contemplated its abolition. The principle of the measure was undoubtedly sound, and, as there was no reasonable cause to apprehend that it would have any other than a salutary operation, it was to be hoped that the House would not hesitate to sanction it.

MR. CROSSLEY said, he must deny that the Bill had any connection whatever with the principle of limited liability, for a partner under its provisions would have no liability at all. It was said that a man might lend money at any rate of interest; but there was this difference in the two cases—that a creditor, unlike a partner, had no right to examine the books.

MR. BASS said, that millionaires might be opposed to the Bill, but men of moderate capital were generally in favour of it. The evils apprehended by the hon. Member for North Warwickshire from the Bill were every day in operation under the present law. The objections taken to the Bill were entirely of a nature for discussion in Committee. He hoped, therefore, that the House would go into Committee.

MR. G. BUTT said, he was really surprised to hear his hon. and learned Friend the Member for Wallingford (Mr. Malins) contend that the Bill embodied the principle of limited liability. Its principle, as had been truly observed, was no liability. Had it carried out the principle of limited liability, he would have supported it; but he denied that it did so. He would put a case. Suppose a man advanced to a trader £1,000 on condition of receiving seven-eighths of the profits, he would receive his money back over and over again; and when the trader failed, he would still be a creditor for the amount. He was as friendly to limited liability as any one, but the Bill would enable persons to take away the profits of business without incurring any liability at all. Under the second clause, an agent or factor who took a

share of profits was exempted from partnership liabilities. The result of that would be, that men would engage as agents, servants, or factors, on such terms as to receive the greater share of the profits, and would escape liability altogether. The third clause was no less mischievous. It would enable retiring partners to pay themselves, in the shape of profits, the capital they professed to leave in the concern over and over again. Where, then, was the principle of limited liability? It was, in fact, a Bill to enable persons to share in the profits of business without being liable for a single farthing. It would give facilities for all sorts of fraud.

VISCOUNT PALMERSTON said, he hoped that the House would go into Committee, and there continue that discussion, which appeared to be carried on by anticipation on the Motion that Mr. Speaker should leave the chair. Most of the objections taken by hon. Gentlemen applied to the details of the Bill, and not to its principle. It was said that the measure was not founded on limited liability; but, at all events, it was founded on the propriety of doing away with unlimited liability. It was needless to remind the House of instances illustrative of the necessity of such a change; yet he might be permitted to cite a somewhat remarkable one—namely, that of Sir Walter Scott, who, if he mistook not, was a dreadful sufferer from the prejudicial operation of the law of unlimited liability. It was said that public opinion was opposed to the Bill. Now, he must confess that he thought, on the contrary, that public opinion was strongly in its favour. The country was convinced that the law of partnership required fundamental alteration; and nothing would tend more to relieve a large portion of the community from the impediments that now prevented them from turning their small capital to profitable account than the Bill which his right hon. Friend the Vice-President of the Board of Trade had introduced. It was somewhat singular that the opponents of this measure were chiefly the great capitalists, or individuals whose position enabled them to wield a large capital; while, on the other hand, its warmest advocates were persons connected with that more numerous class who were possessed of small capital. He thought that *prima facie* the inference to be drawn from that fact was, that the Bill was a good one. Be that, however, as it might, it was certainly remarkable that the hos-

Mr. G. Butt

tility to the measure proceeded from—he would not say “the monopolists,” for that was an odious and offensive term, but—the few who had the advantage of a large capital in conducting their commercial transactions, while the friends of the Bill included those who were anxious to benefit people of humbler means by letting loose their small capital, and giving them freer access to the general market. He trusted that when the measure got into Committee, it would be found to be worthy of the attention of the House, and calculated to advance the prosperity of the community.

MR. T. BARING said, that if argument were wanting against going into Committee on the Bill, it would have been amply supplied by the speech of the noble Lord who had just sat down. The noble Lord had alleged that the contest on the question lay between the few who had the command of a large capital and the many who had but little; and in a very good-humoured way he ventured to impute motives of not the most honourable kind to the opponents of the measure. Now, he must protest against a person occupying the high position of leader of the House of Commons and Prime Minister of the Crown attempting to excite a cry against the capitalists of the country, and making it appear to the people out of doors that the question at issue was one of monopoly—a disagreeable term, indeed, as the noble Lord had admitted, but which he, nevertheless, did not refrain from launching most unjustly against the opponents of the Bill. The noble Lord, he apprehended, required to be reminded that the question before the House was one of principle, namely, whether they should go into Committee; and so far from all the objections taken that night being such as could best be treated in Committee, the objection stated by the hon. and learned Member for Sheffield (Mr. Roebuck) was in his (Mr. T. Baring's) opinion fatal to the principle of the measure. That principle was that everything should be done privately and secretly—that there should be no publicity either as to the amount and the duration of a loan or investment, or as to the time when the money was withdrawn from a concern. Would the right hon. Gentleman (Mr. Lowe) consent to modify his Bill so as to adopt the system of registration and publicity on those matters? If he did, he must go directly in the teeth of the doctrines he enunciated in the speech with which he introduced his measure. It was

manifest, therefore, that they were now debating a question of principle—the principle whether they were to establish a system different from any ever before adopted in any country, and completely at variance with the Bill which was proposed to the House by the predecessor of the right hon. Gentleman, and supported by the noble Lord (Viscount Palmerston) with the same warmth and, also, if he recollected rightly, with the very same insinuations against capitalists in which he had thought proper to indulge on the present occasion. Those charges were wholly unworthy of the noble Lord. If they wanted investments for small capitalists, that took them to the subject of joint-stock companies. The Bill before them dealt with capital applied to the carrying on of trade; and he (Mr. Baring) viewed it in regard to its effect upon the general credit of the country. When the vastness of the credit brought into play throughout the world to carry on the commerce of England was considered, it would be seen how important it was to maintain that credit unshaken, and, therefore, he looked with the greatest suspicion on a change not demanded by the commercial community, and which must have a tendency to diminish confidence in the commercial system of the country. Allusion had been made to the fact that persons were now allowed to lend money at high rates of interest, but that was a different thing from the credit given upon the faith of money advanced. No man would give credit to another who was known to be trading upon borrowed capital for which he was to pay a high rate of interest, but any man would give credit to an establishment in which it was known that a man of great capital had invested money for the purpose of obtaining a share of the profits. Loans known to be obtained upon usurious rates of interest, would detract from the credit of any house. He should vote for the Amendment of the hon. Member for Birmingham (Mr. Muntz), for he believed the Bill was not required at all. There was no want of capital under the present system for the full purposes of trade, and the Bill, moreover, was opposed to the Report of the Commissioners who had inquired into the practicability of reforms in the mercantile laws. It was said that the Bill was justified by the evidence which had been taken. There were, no doubt, many opinions expressed in favour of the change, but there were also opinions of equal authority against it, and the evidence

was entirely against the principle of the Bill, which did not recognise the necessity of publicity and registration. Every witness from the United States, from France, from Holland, or any country where the principle of limited liability prevailed was opposed to the principle of the Bill. Upon those grounds he, therefore, hoped the House would call upon the right hon. Gentleman to withdraw the Bill for the present Session. The Bill was not so necessary now, as the right hon. Gentleman the Vice-President of the Board of Trade had announced his intention, at a future period, to introduce a Bill for changing the character of partnerships, and it would be much better, he considered, to deal with the whole subject upon a wide and comprehensive scale. If it were enacted that men of capital could receive profits without becoming partners, the result would be that, when hard times came, every creditor would set about collecting evidence to ascertain whether the lenders of capital had made themselves liable as partners in any other way—whether they had given advice, had examined the books, or frequented the office, and thus the Bill would become an endless source of profit to the lawyers, but a source of ruin to many who might be tempted by its provisions.

MR. MITCHELL said, he must also complain that the noble Lord at the head of the Government had thrown out unworthy taunts against the mercantile members of that House, and had told them that their objections to the measure would be better stated in Committee. But they were called upon to determine upon the principle of the Bill, which was limited liability without publicity, which was a most objectionable feature in any system of commercial legislation. He wished to know whether, in Committee, the Government would adopt those precautions against fraud which were embodied in the Joint-stock Companies Bill—that a person lending money should not be a creditor against the estate for that money, and that all partnerships in that form should be registered?

SIR JAMES GRAHAM said, presuming that the hon. Member for Birmingham would press his Amendment to a division, he would beg to join in the appeal which had been made to the Vice-President of the Board of Trade by the hon. Gentleman who had last addressed them. His own Vote would depend entirely upon the answer which might be given to that appeal. He could not forget that the Bill was op-

posed to the Report of a Commission and to the Reports of two Committees; and, although it was based upon certain evidence, it was upon evidence which did not warrant the Bill in its present shape. The great weight of testimony in favour of a measure of that description had been accompanied by statements of the necessity of publicity and various safeguards. There was a broad distinction between a man lending money on usurious interest and a person being admitted to share in the profits of the business in return for the loan of his money. The lender on usurious interest had great risks; he had no access to the accounts and knew nothing of the state of the profits. A person, however, receiving a share of the profits would have access to the accounts, would be cognisant of all the secret transactions of the concern, and might withdraw his money as opportunity offered, either immediately or gradually. He quite agreed with the hon. and learned Member for Sheffield (Mr. Roebuck) that the whole matter turned upon the question whether there should be publicity or not. If the right hon. Gentleman (Mr. Lowe) said that in Committee he would be prepared to entertain propositions to insure publicity and to create safeguards, then he (Sir J. Graham) would vote for going into Committee. If, on the contrary, the right hon. Gentleman should regard such propositions as at variance with the principle of the Bill, he (Sir J. Graham) would feel bound to vote against going into Committee.

MR. LOWE said, the proposition made by the hon. Member for Bridport (Mr. Mitchell) and urged upon his acceptance by the right Baronet who had just resumed his seat reminded him that gold might be bought too dear. He should be glad to have the right hon. Baronet's support, but he would not purchase it at a price which he could not fairly pay. It had not been his intention to trouble the House upon this stage of the Bill, which had, in fact, been read a second time twice in the course of the session, after considerable discussion on each occasion; but, being challenged upon every point, and the last words of the right hon. Baronet sounding very much like an intimation of the probability that the Bill would not proceed any further, it was only right that he (Mr. Lowe) should briefly state the nature of the measure. The Bill certainly was not a Bill dealing with partnerships properly so called; that subject he had dealt with

Sir James Graham

already. If a partnership wished to constitute itself in a shape to receive the privileges of limited liability, the Joint-stock Companies Bill, which was now in the House of Lords, offered facilities for that purpose. He thought it very doubtful whether the principle of limited liability should be applied to partnerships in the manner that had been shadowed forth by some hon. Members in the course of the discussion, but he would give no decided opinion at present upon that point. Whatever was done with the law of partnership, the law of principal and agent ought not to be destroyed. The Bill now under consideration, however, was not a Bill to alter the law of partnership, it was merely supplementary to the repeal of the usury laws. It was not a Bill to regulate the relation of partners *inter se*, nor with third parties, but to regulate the terms upon which capital should be advanced. He believed the Bill to be a beneficial one, for as the hon. Member for Tynemouth (Mr. Lindsay), in a pamphlet he had published, observed, talent was a drug and capital was a drug, but the union of capital with talent was rare, and so far from being a drug would be extremely valuable to society. The present Bill would, he believed, bring about that union, and it was most desirable that it should pass, as, if it were thrown over, great injustice would be done to single traders. The Joint-stock Companies Bill was almost certain to become law, and by it a host of Companies would be created to compete with traders in all kinds of business. [*Ironical cries of "Hear, hear!"*] He rejoiced at that circumstance. They had carried out the principle of free trade into the competition of capital. His notion of free trade was not a one-sided one, and having enabled Joint-stock Companies to compete with individual traders, it was only fair and just to give to the latter every reasonable liberty to compete with the Joint-stock Companies. Believing as he did that the Bill was a salutary measure, he was most anxious that it should also be an efficient Bill and carry into effect the principles upon which it professed to be founded. That principle was to facilitate the advance of capital upon the consideration of a participation in the profits, and he believed that advances upon such terms would be advantageous both to the borrowers and the lenders, because the latter would take nothing except when the borrower was fully able to pay, and thus his capital would never be incum-

bered with the payment of high interest. But the question which really pinched was—what was practicable? Hon. Gentlemen talked of safeguards being required, and that if they were introduced the Bill would be unobjectionable; but if too many safeguards were introduced, the Bill would be made safe altogether, for it would be inoperative and not work at all. The question which, as a practical man, he had to decide was, how many safeguards could be introduced without making the Bill a dead letter? He wished the Bill to pass, and he wished, at the same time, that it should be effective and carry out the object it professed to have in view. That, however, would depend not altogether on the nature of the Bill itself, but on the facilities now given to other transactions of a similar nature. Where you put a duty on an article you must look to the probable operations of the smuggler, and in the same way, when you imposed safeguards upon a particular kind of contract, which you were still anxious should be entered into, you had to consider what alternatives were possessed by persons for whom you legislated, and whether they would enter into those contracts with the safeguards you proposed to lay down. Now, he found that since the Committee of 1851, alluded to by the hon. Member for Kendal (Mr. Glyn), two changes in the law had taken place—namely, the repeal of the usury laws, and the Joint-stock Companies Act recently passed; and he asked himself, when you had got your safeguards—the publicity, the registration and the other machinery of the kind proposed—who would take advantage of the Bill at all, who would be disposed to avail themselves of its provisions? How could you expect people, when they could obtain nearly the same advantages by other methods of proceeding, to have recourse to this measure? On what principle of human nature was it expected that a man who could lend his money at a fixed rate of interest, without depending on the profits, without publicity, without registration, would put aside those facilities in order to involve himself in all the intricacies now proposed? It was perfectly clear that the effect of such a provision would be to perpetuate an injurious system now in operation—namely, the practice which prevailed, with regard to trading concerns, of having a certain amount of their capital supplied for a short period by dealers in money. That was a system which he looked upon as injurious to the trade of the country;

it was far better that that capital should be supplied by persons who were more intimately concerned with the business carried on than the mere money-lender or bill-discounter. Under the system now proposed, however, you would be poisoning the scale in favour of the money-lender and bill-discounter, and against the persons whom it was wished to emancipate (so to speak) by the Bill now before the House. What was there in the nature of loans, based on a share of the profits, which should make them so utterly different from other kinds of loans? The only difference between such loans and those of the ordinary character was, that there was something to arrive at before the interest was paid, namely, the amount of the profits; whereas in the other case the amount of interest was settled by exact stipulation between the parties. Was there anything in that principle which warranted so great a difference in the manner of treating the two cases, so that whereas in the one instance you allowed the lender the fullest licence to deal with the borrower as he thought proper, without in the least interfering with the nature of the transaction, you should think it necessary in the other instance to tie up the transaction by every species of burdensome restriction which man could conceive or invent? It was said that the man who lent money on profits had access to the books. That, however, was a mistake. He apprehended that, practically, the mere lending of money on profits would not give a man the right to go into the counting-house and turn over the books as he pleased. In equity the lender might have such a right, but how many contracts would there be in which it would be left to a Court of Equity to decide in the matter? Would it not be left to be decided in the agreement between the parties? or would it not be left to arbitration? in which case there would be no difficulty at all in the matter. What was there in all this to warrant the wonderful difference made in treating the two kinds of loans? But go a little further. How long had it been laid down that a man, when he advanced his money, might not stipulate for any advantage he thought proper? In consideration for a loan at fixed interest he might stipulate for security, he might stipulate for access to the books, and for any other advantage which he chose to insist on. Take, however, a case:—Suppose a man advanced money on security on condition that he received

some portion of the profit—would you take his security from him because he stipulated to be paid in profits instead of a high rate of interest, which would have covered the probable profits? Now, hon. Members should be aware that all those things were to be considered; the line must be drawn, and he could not conceive where that line was to be drawn. It appeared to him, under all the circumstances, that he should be inexcusable if he consented to the proposed system of registration. He looked upon that system as the most cruel trap, the most perfect delusion which could possibly be devised—as one which would cause more hardships, more ruin, more misery than any provisions which could be imagined—as a system which would be the fruitful mother of every species of fraud and iniquity. The first words of the clause were these—

“No person who may hereafter lend money to a trader in the manner authorised by this Act for a fixed period of time shall be deemed to be a partner.”

So that, if in the slightest particular the very numerous and intricate provisions of the Act were departed from—the least omission or inadvertence rendered a lender, instead of not being liable at all, accountable to the last shilling of his fortune. A simple error in the description, an error in a figure, an inadvertence for which he might not be in the slightest degree responsible, made him liable to the extent of every farthing he possessed for the debts of the concern. Well, then, he said, better—a thousand times better—have no Act at all than such a trap as that would prove to be. Again, it was proposed to register the name, the place of business, the description of the lender, and of the trader borrowing, and the amount of the loan. In France, where the system had been in force for a considerable period, it was found that the loans on terms of receiving profits, unlike loans on terms of fixed interest, gave a degree of credit to the borrower. If persons were found willing to lend to a concern on condition that they should only be repaid when profits began to be made, that would obviously be one means of creating confidence in such a concern. You therefore gave people, if fraudulently disposed, an opportunity, under the system of registration, of putting down the name of any great capitalist, and of entering him as a lender, thus imparting a fictitious credit to the concern. Then as to the amount of the loan. Fraud-

Mr. Lowe

duently disposed persons might put down any amount they pleased, and might refer to the registry and show that they had this amount of capital at their disposal. What made the matter worse was, that the registrar was to ascertain, by a *quasi* judicial process the genuineness of the loan which would give rise to the notion that that officer had made inquiry into the *bonâ fides* of the transaction, whereas it would really establish nothing of the sort and could lead to nothing at all. Before registering the loan the registrar was to require the production of the instrument for securing or manifesting the same, and such other evidence of such loan as he shall deem sufficient,” and then he would certify that it had been paid. But suppose it had been paid. In the case of the fraudulent collusion suggested, what was to prevent the loan being recalled the next day after being so paid? Then any variation of the contract, or any change of the terms, established a new contract, that is to say, if it was not registered at the very moment it made a man again unlimitedly liable to the creditors of the concern. There were a great many points of a similar nature which he might bring forward; but he had said enough, he thought, to show the objections he entertained to the proposals made; and, entertaining those objections, he considered that he should be culpable indeed if he held out any hope that he would assent to those proposals. Their adoption would be, in his opinion, a thousand times worse than having no Bill at all. He had, therefore, no difficulty in meeting the challenge of his right hon. Friend (Sir J. Graham) by saying that he could not adopt a system of registration which would be looked upon as *bonâ fide*, but would be infinitely worse than none at all; and he could scarcely imagine how such Amendments could be introduced by any Gentleman favourable to the principle of the Bill. For his part, he was prepared to stand on the principle of the Bill, which was not, as had been truly said, that of limited liability; it was not the principle that a partner should limit his liability; it was not the principle of *commandite*, which was devised for the purpose of cheating the usury laws; but it was to enable private partnerships, under the competition to which they were now to be subjected, to increase their capital by removing from those who were willing to advance capital the present heavy restrictions and penalties. That was the principle of the mea-

sure, and he would not sacrifice the carrying out of that principle by holding out any promise of yielding to the proposals to which he had adverted.

MR. CARDWELL said, he must call upon the House to observe that, as it had been put by his right hon. Friend the Vice-President of the Board of Trade, they were not going to vote upon the question of limited liability, and, therefore, hon. Members who voted against the proposal to go into Committee would not be voting against that principle. He had been under the belief that to his right hon. Friend was due the credit of having sent to the other House in the present Session of Parliament a comprehensive and useful measure for giving limited liability to Joint-stock Companies; but how great must be the disappointment with which they had listened to his right hon. Friend, who told them that any attempt, with regard to this measure, to give that simple publicity which many hon. Gentlemen thought essential to the *bona fides* of those transactions must necessarily be so impracticable that it would be a thousand times better the Bill should not pass at all. Now what the advocates of publicity desired was, that the Bill now under consideration should follow the precedent of the Joint-stock Companies' Act. The hon. Member for Kendal (Mr. Glyn) identified himself with the principle of publicity, and argued that notice should be given to the whole community of the nature of the partnerships about to be created. The Joint-stock Companies Act carried out the fundamental principle of our own law, and what was also, he believed, a fundamental principle of the law of every commercial country in the world—that persons might limit their liability *inter se*, but that, if they limited their liability against an unknowing creditor, he should not be bound by a contract made behind his back—that freedom of trade should not be extended to freedom of fraud—and that the creditor should not be governed by arrangements made collusively without his knowledge. It was found that that principle of the law of this country operated as a restraint upon commercial transactions, and, therefore, in the Joint-stock Companies' Act a mode of registration and publicity was devised, and it was provided that all persons dealing with a partnership incorporated under that Act, since they had the means of ascertaining the limits of its liability, should be deemed to have dealt with it as a limited

liability partnership. The hon. Member for Kendal, and others who agreed with him in opinion, said, "Be consistent in your legislation, and do not in the same Session, and on the same subject, assent to two measures which are diametrically opposed in principle." How could his right hon. Friend (Mr. Lowe) tell them that the very same regulation for which he had obtained much credit for sending up to the other House in the larger Bill would be delusive, impracticable, and mischievous, if it were introduced into the measure now before them. The right hon. Gentleman told them that the Bill did not relate to the question of partnership, but that it was intended to supplement the usury laws. Common persons, he apprehended, would judge of the object of a Bill from its endorsement, and he found the endorsement of the Bill was "Partnership Amendment (No. 2) Bill." The House had twice, during the present Session, agreed to amend the law of partnership, and he would now ask them, if they went into Committee, to do that which, by assenting to the second reading of the Bill, they had determined to do—namely, to amend the law of partnership. The right hon. Gentleman (Mr. Lowe) said, they would act with injustice towards private partnerships if they did not pass this Bill, because they had given to great partnerships all the privileges and advantages of the Joint-stock Companies' Bill, thereby raising up competitors against smaller partnerships. Now what was the natural inference to be deduced from that observation of his right hon. Friend? Why place the smaller partnerships precisely upon the same footing as the larger, let there be perfect equality—a clear stage and no favour. Every argument urged by the right hon. Gentleman against the introduction of reasonable precautions into his Bill told with precisely the same force against all the precautions which he had himself inserted in the Bill that had been sent up to the other House. [Mr. Lowe said that no conditions had been inserted in the latter measure.] His right hon. Friend said that no conditions had been inserted in the Bill sent up to the other House. Possibly his right hon. Friend might be interested to learn what were some of the provisions of the Bill which had been sent up to the other House. That Bill expressly required a registration of the names of partners; a statement of the objects with which the partnership was

established; a declaration whether the liability of the shareholders was to be limited or unlimited; a statement of the amount of capital; and it provided also that the word "limited" should be added to the title of the company; yet the right hon. Gentleman said that the measure contained no provisions for the protection of the public. Surely those conditions would suffice to give universal notice of the character of the company, and would afford a protection against fraud to the public. But if the Bill was not only inconsistent with the principle of the law of this country, but also inconsistent with the measure for the regulation of joint-stock banks, which had been sent to the other House, upon what authority was it founded? Did the two Committees of that House, which had considered the subject, recommend a measure of this description? They did not. They recommended a measure similar to that which had been suggested by the hon. Member for Kendal (Mr. Glyn). Did the Commission recommend this Bill? No. One-half the members of the Commission—for there was a difference of opinion on the subject—recommended that some arrangement should be made with regard to such loans as were contemplated by the Bill, but not without safeguards against fraud. The example of foreign countries had been appealed to, and the case of America had been mentioned. He had in his hand the revised Statutes of Massachusetts, and he found that there was not one restriction that had been called for to-night that was not in force in that State. How could it be contended, then, that such restrictions would be impracticable, mischievous, and cruel in this country? What was the law of France and Germany on the subject? The speech of the right hon. Gentleman (Mr. Lowe) might lead hon. Members to imagine that in France no regulations existed for the protection of the public. He would not enter into a dissertation upon the bankruptcy laws of other countries, but he believed the stringency of those laws afforded greater protection to the public than was given by the laws of Great Britain. The Leipsic Chamber of Commerce, speaking of the *Code de Commerce*, said—

"It is necessary that this extract (a general notification of the character of the partnership), besides the names of the managing partners, the commercial objects of the newly-established company, the commencement and the termination of the period for which it is formed, should contain

Mr. Cardwell

the number (not, however, the names) of the *commanditaires*, and the amount of the funds advanced or to be advanced by them. Other commercial codes require also the publication of the names of the individual *commanditaires*."

The right hon. Gentleman, then, could not appeal to the law of America, of France, or of Europe; but it was said that the law was found to be satisfactory in those countries where there was an absence of restriction. Among the eminent men who composed the Commission there was not one whose opinion on such a subject was more valuable than that of Mr. Slater, who said—

"But it is by no means certain that partnerships *en commandite*, even in those countries where the system is most adopted, give that satisfaction which its advocates would predicate. In France, M. Horson, although in favour of such partnerships, gives no very flattering account of its operation, ascribing the evil effects which are occasionally produced by such partnerships, or rather the excrescences which have arisen out of them, 'to the fact of its principle not having been sufficiently clearly defined in the Commercial Code of 1807, while since that time the jurisprudence and the precedents have gradually deviated more and more from this principle.'"

Now, he would ask hon. Members if that principle would be clearly defined by this Bill? Could any man tell what would be the operation of a measure which, according to the right hon. Member for Kidderminster, would not entitle a person advancing money to a partnership to have access to the books? He (Mr. Cardwell) knew the Bill did not in terms entitle a person under such circumstances to have access to the books; but was a man to form a contract that he should be remunerated according to the profits of an undertaking, and then to be denied access to the means of ascertaining what the amount of those profits were? The right hon. Gentleman said that an account might be had in chancery; but would that House assent to a Bill which would establish a system of commercial contracts the nature of which could only be determined by the cumbrous and costly expedient of an account in Chancery? Mr. Horson stated that the mischiefs which had arisen in France were attributable to the fact that the principle of the law had not been sufficiently clearly defined in the Commercial Code, and those mischiefs were—

"That there is no guarantee that the *commanditaire* has wholly paid up his *quota*—no registration of either names or shares—and no effective security against fraud, both partnerships *en commandite* and *sociétés anonymes* being addicted to reckless speculation."

The House had been told that all the evidence was in favour of limited liability. They were not now discussing limited liability, but, if they were, it would be found that the whole tenor of the evidence was in favour of limited liability with publicity, but certainly not without publicity. One of the witnesses, who would have the greatest weight with the Commissioners, must have been his right hon. Friend the Vice-President of the Board of Trade, and he would therefore read to the House the opinion given by him before the Commission. He was asked this question:—

"Ought it to be indispensable to such limited partnerships that a registration of the terms on which the partnership is carried on should be required; and that the very name by which such company was denominated should mark it as belonging to that class? What ought to appear in the registration of the company? In particular, do you think that the names of the limited partners, together with the sums furnished by them respectively, should be published in such register?"

The House would see that this was the very thing now asked for. The right hon. Gentleman answered the question thus:—

"I think, as the partners are left to fix the terms of their contract, the public should have access to those conditions by which it is to be bound, and therefore that the terms should be registered."

Cruel trap! mischief! impracticability! Such had been the language of the right hon. Gentleman that night. Then, in his evidence, his right hon. Friend proceeded to say:—

"Too much publicity cannot be given to the nature of the partnership; and I think, to facilitate inquiry, the names of the partners should be given. I see no objection to publication in the newspapers, as practised in America; but I do not think a circular of accounts should be required."

He also said, he would have certificates "distinguishing who are general and who are special partners, the amount of capital which each special partner has contributed to the common stock, the general nature of the business to be transacted, and the time when the partnership is to commence and when it is to terminate." Do not let the right hon. Gentleman now say that the lender—that was to say, the *commanditaire*—ought not to be registered as well as the general partners. The matter had been rather discussed as if it was some difficult question of law—as if we had got some deep abyss of legal knowledge to fathom before we could come to an intelli-

gible opinion regarding it; but in truth it was a very plain question of common sense. The question was, whether we were going, for the first time in commercial history, to legalise a state of things in which such operations as he would now describe could be carried into effect? Imagine a capitalist desirous of speculating with £10,000. Imagine him to send down to Liverpool two men of straw with £5,000 each received from him. Let it be a period of great speculation, and let them deal with some particular article which was likely to fluctuate very considerably in price. He desires one of his agents to speculate for a rise, and the other for a fall in the value of the article. The article of course would either rise or fall. One of the persons so set up by the capitalist would sustain a loss, and the other would necessarily realise a large profit. The profit would go to the capitalist, while the loss would be limited to £5,000, and as the present Bill was drawn he would be a creditor for that amount. More than that, he would be a creditor with means of knowledge that no other man possessed, and with an opportunity of getting his £5,000 that no other creditor had. Now, let the Bill be called a supplement to the Joint-stock Company's Act, or to the Usury Laws Repeal Act; or let it be called on the back "A Bill to amend the Law of Partnership," and in the debate, as had been done, let it be stated that it had nothing to do with the law of partnership—what did all that signify? The question was, whether or not that House was going to establish a gigantic system of fraud to the injury of the honest trader and to the great detriment of the commercial interests of the country? Well, what was the particular time at which this Bill was brought before the House? He had read that morning some interesting observations in the city article of *The Times*, one or two of which he would take the liberty to bring under the notice of the House. It was said—

"The form of speculation now gradually commencing will be watched with anxiety by all who regard the permanent welfare of the country."

Then it went on to say that every one must see—

"That the final result will be a crash such as was witnessed in 1825, 1836, and 1847, and which in this country may be looked for with absolute precision once every eleven years."

Then, if a crash might be expected to come in the periodical way here described,

there surely was no need and no wisdom to make it more serious when it did come. But a part of the article referred to the Limited Liability Act as follows:—

“It is a singular fact, that while the law of limited liability has been assailed on the ground that it would prove a stimulus to the wildest speculation, it has thus far led only to a few moderate and for the most part useful projects, which may serve in their degree the healthful purpose of finding employment for our energies within the limits of our own shores.”

It must be very satisfactory that the limited liability law passed last year, which contained the principle of publicity, was working so well, even when the fever of speculation had begun. Could there be a better reason for taking care that in any other Bill passed by the House there should be the same safeguards? He would say, by all means allow persons, as our law now allowed, to limit their liability by such contracts as they pleased; but take care that the person against whom they were to be limited had the means of knowing the nature of the contract. On the second reading of the Bill he expressed his opinion that such alterations as were required could be made in Committee, and, had he been called on to give a vote some time ago when his noble Friend at the head of the Government, who judiciously said all those questions could be settled in Committee, sat down, he should not have voted with the hon. Member for Birmingham. But with that candour which his right hon. Friend (Mr. Lowe) exhibited on every occasion, he had distinctly told the House that the Bill would be worse than useless if the proposed change were introduced, and that it would be a thousand times better to have no Bill at all. It was clear, therefore, that if the Bill were changed in Committee, it would not have the advantage of his right hon. Friend's patronage in order to being carried into a law. If they went into Committee the result might be a law to which many in that House would positively object. If they succeeded in amending the Bill in Committee, then his right hon. Friend would abandon his guardianship of it, and they would be in no better case. Under those circumstances, therefore, he thought the wiser course would be to vote for the Amendment of the hon. Member for Birmingham.

THE LORD ADVOCATE said, he should not have interposed any observations of his own between the House and the division, if a discussion on the principle of the Bill had not been raised. He had

devoted much attention to the subject, and he must confess that if it were not for the high authority of the speakers who had preceded him, he should have supposed they had been talking about an entirely different matter from that which was really before the House. The hon. Member for Huntingdon (Mr. T. Baring) seemed to say that the Bill involved the principle of *commandite*. Now so far from advocating the principle of *commandite* he (the Lord Advocate) was not in favour of that principle; and when his right hon. Friend two years ago, proposed to introduce a Bill for establishing the principle of limited liability, he requested him not to extend the measure to Scotland, because he was apprehensive they were travelling rather too fast under the pressure of the railway system that then prevailed. On the other hand the right hon. Gentleman the Member for Oxford (Mr. Cardwell) had dealt with the Bill as if it were a Joint-stock Companies Bill. Now, in his (the Lord Advocate's) opinion, no two subjects could be more distinct. There were three commercial relations totally distinct from each other, which had been brought into discussion by recent legislation:—First, partnership proper; second, partnership *en commandite*; and third, the partnership of a Joint-stock Company. Those were all totally distinct from what was meant when they spoke of limited liability. Everybody knew that a Joint-stock Company was not a partnership in the proper sense of the term. It was a combination in which the stocks and not the partners constituted the principal object; so much so, indeed, that it had been doubted whether the members of a Joint-stock Company were subject to the law of universal liability. It, in fact, differed entirely from a partnership proper, for the shareholders in Joint-stock Companies were not partners, they had only an interest in the stock. In the case of a partnership proper all the partners had a right to manage the concern; their shares were not transferable; and they were not succeeded by others in the partnership. All the qualifications which characterised the members of an ordinary partnership ceased in a Joint-stock Company. Having put that aside, what was it that was meant by limited liability? It was not to limit a man's obligations, for what he undertook to do he was bound to perform; and what he did not undertake to do, no law could make him do. If you meant by limited liability

Mr. Cardwell

to exempt a man from his own obligations, that would be a false system of legislation; but if you meant by limited liability to compel a man to do what he never undertook to do, that would be injustice. A man who stood in the position of a lender and a creditor, should not be placed in the position of a partner. He, therefore, objected to the law of *commandite* because it made a partner a creditor; and he objected to the present law of partnership in England, because it said that a man who was merely a creditor should stand in the position of a partner. When the right hon. Gentleman (Mr. Cardwell) talked about the universal liability of partners, that depended upon the plain principle that every trader was liable to pay his own debts; and, if there were two traders each authorising the other to act for him, each of them would be as much liable for the debts contracted by the other as if they had been contracted by himself. But, as regarded the partnership property, the man who had lent his money as an ordinary creditor in order to receive a share of the profits only, but without any authority to act as a partner—such a person could not be subjected to the liabilities of a partner. The right hon. Gentleman had said that wherever the usury laws were in force no man could receive more than the legal rate of interest in the capacity of a lender; and that he must be a partner in order to enable him to receive a larger share of the profits. But the law had been altered in this respect; and a man might now advance money upon any terms he liked, provided the amount of interest were fixed. It was said that the profits were what the shareholders and creditors looked to for the payment of their debts. But that was entirely a fallacy. It was to the partnership that those parties looked; and it was the partnership that would be liable to pay the debts. It had been argued that the terms on which the money was lent might be so extortionate that the lender would have it in his power to sweep away the whole of the profits. But the answer to that was, that if a man were truly a partner he should not be anything different from a partner; and that if he were truly a creditor he should not be something different from a creditor. That was all that his right hon. Friend the Vice President of the Board of Trade asked by this Bill. The right hon. Gentleman (Mr. Cardwell) had put the case of a man sending down

to Manchester or Liverpool two men of straw, to whom he advanced money, giving them instructions how they were to apply it, in order that he himself might avoid all liability; but was it not plain and evident that in that case, when a person not only advanced money, but exercised a control over it, giving instructions as to its application, the lender would be a partner, and that those facts would prove him to be a partner? The whole question, after all, was this—if a man honestly lent money to another for the purposes of trade, was that a sufficient ground for saying that he who was really only a creditor should be deemed to be a partner? It was said that such a person would have an advantage over all other creditors by knowing under what circumstances the borrower was carrying on his trade. That was perfectly true. But in Scotland any preference shown to the lender by the borrower was unlawful and was good ground for a commission of bankruptcy. It appeared to him that there was nothing in the objections that had been raised by hon. Members that could at all militate against the Bill. It was not proposed by the Bill to establish the principle of limited partnerships. What his right hon. Friend (Mr. Lowe) proposed was to describe a creditor as a creditor. He held that a partnership consisted of persons who participated both in the profit and in the loss; but where there was only a participation in the profit, and without any participation in the loss, that was not a partnership. They could not create commerce, but they could leave commerce free, and allow every man to make what contract he pleased that was consistent with the ordinary laws and policy of the country—let him know what that contract was, and give him the cheapest and most efficient remedy to enforce its observance. He was perfectly satisfied that the more free commerce was left, and the more they reverted to first principles, the more surely would they protect commerce against fraud. He believed that all restraints and penalties that might be imposed either on money-lenders or borrowers would only result in opening a door to mischief, and would be of advantage to no one.

MR. LINDSAY said, the arguments used against the Bill went against the principle of limited liability altogether. His opinion was that the House legislated too much for the protection of the creditor. Men should be left to their own

judgment, energy, and industry, and all the attempts of the Legislature to prevent frauds were, he feared, but so many cloaks to cover them. The House could not prevent fraud, and it would be vain to attempt it. He agreed with his right hon. Friend, the Vice President of the Board of Trade, that the principle of registration was so entirely opposed to the principle of the Bill that it would be better to leave it alone altogether than admit anything like what had been shadowed forth that evening. The principle of the Bill was a simple and sound one, to allow *A* and *B* to borrow and lend on any conditions they thought proper. The public had nothing to do with those conditions. If registration was introduced, where were they to stop? Would they extend it to sums of £5 or £1? They should register not merely the sums, but also the conditions. A mere register of the loan would be of no avail, and would not prevent fraud. It would be better, in his opinion, to put the Bill aside altogether than adopt the system of registration. He could not, however, but respect the opinion of such men as the hon. Members for Kendal (Mr. Glyn), and for Oxford (Mr. Cardwell), and he thought his right hon. Friend, the Vice President of the Board of Trade, might very well have asked to be allowed to go into Committee, and see whether the opponents of the Bill had not some proposal different from that on the paper, which he might be able to adopt without sacrificing the Bill.

MR. MONTAGU CHAMBERS said, he was of opinion that there ought to be some means of preventing reckless men of wealth from working on the credulity of others, deriving all the profits in case of success, but, in case of failure, throwing the loss upon their dupes. The difficulties he felt were with respect to the third clause of the Bill, which contained the whole pith of the measure. It proposed to enact that no person making a loan to any trader shall be deemed to be a partner, or subject to any liability incurred by such trader, by reason only that he received as a compensation for such loan any profits of the business carried on by such trader. Now, what security was there in that clause against fraud? A trader might in two or three years take nine-tenths of the profits, and then in the fourth year, when the credits of the company had become large, and it may have incurred great losses, might

Mr. Lindsay

demand his share of the profits without contributing to the losses, and, perhaps, £1,000 besides. The right hon. and learned Lord Advocate said it was simply a matter of borrowing and lending; but the law, as it at present stood, provided that a sharer in the profits should also be a sharer in the peril; and it was now proposed to abolish that salutary provision. He should, however, vote for going into Committee, in the hope that such changes would be made as would make this a useful Bill, giving freedom to capital without granting impunity to fraud.

Question put, "That the words proposed to be left out stand part of the Question."

The House divided:—Ayes 75; Noes 61: Majority 14.

Main Question put, and *agreed to*.

House in Committee.

Clause 1.

MR. CRAUFURD said, it was his intention to move the omission of the first four clauses, and in lieu thereof the insertion of the following:—

"The advance of capital or money, to be used in any trade or undertaking, not being the trade of a banker, upon a contract with the person carrying on such trade or undertaking that the person making such advance shall receive a share of, or a rate of interest varying with, the profits of the trade or undertaking, shall not, of itself, render the person making such advance a partner in such trade or undertaking. The person making such advance shall be entitled to call for an account of the profits of such trade or undertaking, but shall not, as against creditors, have any right or title to the property or assets of the trade or undertaking; and in case of the bankruptcy or insolvency of the person carrying on such trade or undertaking, the person making such advance shall be compellable to pay to the assignees any share of capital or money which he has undertaken to provide. Any such capital or money withdrawn by the person making such advance shall, if withdrawn within six months prior to the bankruptcy or insolvency of the person carrying on such trade or undertaking, be recoverable by the assignees. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking, by a share of the profits of such trade or undertaking, shall, of itself, render such servant or agent a partner therein, but such servant or agent shall be entitled to call for an account of the profits of such trade or undertaking."

It was evident to him from the debate which had just taken place that there was a feeling, or rather a prejudice, in many minds against the object of the Bill. That prejudice arose, he apprehended, from a misconception. The Bill did not, as was supposed, touch the question of limited liability, but merely settled who should and

who should not be deemed a partner in a commercial undertaking. Its object was to neutralise the decision in "*Waugh v. Carver*," and so far it would effect a great improvement in the existing law. Nevertheless he thought some of its provisions might be altered with advantage, and the clause which he proposed would, in his opinion, make it less objectionable than at present to some hon. Members. There seemed to be a very general impression that a distinction should be drawn between a lender with a varying rate of interest and one with a fixed rate. He hoped the right hon. Gentleman the Vice President of the Board of Trade would see the propriety of yielding to that impression. He would not, however, press his Motion to a division.

Clause *agreed to* ; as was also Clause 2.

Clause 3 (Lender not to be deemed a Partner).

Mr. GREGSON said, he would propose to add the following words :—

"No portion of such loan as aforesaid shall be recoverable until after all other creditors shall have been fully satisfied as to their lawful claims on the said business."

He thought, if a person partaking of the profits was not to be considered a partner it would be difficult to say who was a partner; but he ought, at any rate, to be liable for the sum he put down to obtain those profits.

Mr. LOWE said, he must object to the proposed Amendment, the effect of which would be, that if a person lent some one money for the purpose of his business on the terms of receiving a portion of the profits, and, on the period of the loan elapsing, was obliged to sue the debtor for it, he could not recover without proving that all the other creditors had been satisfied. He thought he need say no more to prove the impropriety of adopting the Amendment of the hon. Gentleman.

Mr. MALINS said, that the Amendment was a clinging to the old notion that persons participating in a business should be amenable to the liabilities, the very thing which the Bill sought to get rid of. Taking the case of a farmer to whom money was lent, this Act said that they might lend the money and accept a share of the profits ; but was there any reason why the demand of the lender should be postponed, in case of failure, till after the remainder of the creditors were satisfied ? The hon. Gentleman (Mr. Gregson) seemed to think that all such transactions were to

be founded in fraud. The Bill was intended to give relief to capital, whereas to insert such a provision as that proposed would totally defeat its object.

Mr. HINDLEY said, that a partner was nothing but one who took a share in the profits ; and hon. Gentlemen had better get rid of their new-fangled notions. He objected to the clause. Under it a man did not maintain the same character ; in his engagements he was at one time a lender, at another a partner, and again a creditor. They had been told they were to have free trade in everything. If so, he should like to know why, if he liked to issue pieces of paper, promising to pay £1 on demand, and the people were ready to take them, the law should step in and forbid him to do so ?

Mr. SPOONER said, he would suggest to the hon. Member for Lancaster (Mr. Gregson) that the Amendment should commence as follows :—"But in case of the insolvency or bankruptcy of such trader, no portion," &c.

Mr. MITCHELL said, he should be glad if the Vice-President of the Board of Trade would clearly define what a partner would be if the clause passed. He foresaw very plainly that the clause would lead to endless litigation, for in every case of bankruptcy where there was a man who had lent money in this manner attempts would be made to constitute him a partner.

Mr. VANCE said, he knew many firms in which the names under which the business was carried on were entirely different from those of the actual partners, and it was possible that under the clause all the partners might lend money to each other and yet none of them be deemed partners in case of bankruptcy. He agreed, therefore, with the hon. Member for Bridport (Mr. Mitchell) that the Government ought to state who would and who would not be a partner under the Bill.

Mr. MONTAGU CHAMBERS said, he must avow that, in common with all mercantile men, he was under the impression that an arrangement between two persons that one should advance money for the purposes of business and the other conduct it, and that they should share the profits, constituted a partnership. Now, an agreement between two persons that one should lend money to the other for the purposes of a business and share the profits was, in substance, the same thing. He was aware that it might be considered an

old-fashioned notion, but it was a plain, common-sense notion, and an English notion. The Amendment proposed that he should run some risk corresponding to his chances of gain, and he thought that was only fair. The measure, therefore, in his opinion, required the limitation and restriction proposed.

MR. LOWE said, he was not perhaps an authority on law matters, but he would state what he believed to be essential elements in partnership at present. In the first place, there must be joint ownership of the partnership property; in the second place, there must be joint contracting; in the third place, there must be the power of choosing who should constitute the partners; and, further, the partners must be agents in binding each other in partnership transactions, which mere lenders were not. Besides all this, there must be the power of sharing in the profits. But that was only one, and perhaps not the most important, incident; and his complaint against the present system was, that it extended a single incident of the law of partnership to everything, such as contracts for loans, &c. The object of the Bill was to remedy that state of things, by declaring that a man should not be deemed a partner simply because he shared in the profits. There would still be abundant criteria by which to distinguish partners.

MR. HINDLEY said, he thought one of the greatest objections to the Bill was, that the question of who were partners would be left to be settled by arbitration.

MR. W. WILLIAMS said, he thought that if the third clause were passed without any qualification, it would open a door to fraud. In his opinion, parties who lent money should be made liable for all engagements which were entered into while the money remained, and he also considered that in case of bankruptcy, if any collusion was proved to have taken place in regard to the division of profits, the money should be returned. The grand point was to make the provisions of the Bill sufficiently stringent to prevent fraud.

MR. E. BALL said, that the simple question was this—Whether a person advancing money to another person to enable him to carry on trade was to be in a worse position than other creditors? It would be a very hard case if a man who should lend a farmer money to extend his farming were, if hard times should come, to be deprived of his claim to repayment in his due proportion on that account. The Amend-

ment would deprive the tradesman of his proper chance of obtaining capital.

MR. WILKINSON said, he had never been able to understand how the creditor could be damaged by a lender's receiving interest in proportion to the profits, instead of a fixed rate; on the contrary, that had always appeared to him the best arrangement for them, inasmuch as it would prevent the lender from drawing interest when no profits were made.

MR. BARROW said, that the proper principle was, that a man who claimed an extraordinary amount of profit, and who did not enter the concern as a mere ordinary trader, should also run the risk of loss.

Question put, "That those words be there added."

The Committee *divided*:—Ayes 83; Noes 80; Majority 3.

MR. SPOONER said, he thought the Bill contained no sufficient precaution against the undue preference of a creditor who had advanced money upon participation of profits, and he therefore moved the addition to the clause of the following proviso:—

"Provided always, that any person making a loan to any trader and receiving a share of the profits as compensation for such loan shall, in the event of the trader becoming insolvent, repay to the estate of such insolvent trader all moneys drawn out by him either on account of the principal of the loan so made as aforesaid, or on account of the profits received as aforesaid, within the three years immediately preceding the insolvency of such trader."

MR. MALINS said, he put it to the right hon. Gentleman (Mr. Lowe) whether, after the division which had just taken place, it was worth while to proceed with the Bill? The principle of the Bill was that money might be lent to a trader upon a contract for remuneration by the receipt of a share of the profits, without incurring any of the disadvantages formerly incurred by a partnership. Now, those disadvantages were two—liability to creditors and liability to the loss of capital, as between the lender and the other creditors. It had, by a small majority of three, been decided that if a trader or farmer borrowed money of two persons—of one upon interest at the rate of 20 per cent, and of the other upon a participation in the profits, and became insolvent—the man who had lent at the rate of 20 per cent, while the profits were not more than 10 per cent, should be paid in full, while the other who had fairly agreed to take a share

of the profits should be unpaid. That seemed to be so fatal to the principle of the Bill that he put it to the noble Lord (Lord Palmerston) and the right hon. Gentleman, that it had become valueless and was not worth the waste of any more time upon it.

MR. MUNTZ said, he quite agreed with the hon. and learned Gentleman who had last addressed them, that the Bill now was not worth a single farthing, as no man of any common sense would lend money under the clause as it now stood. He would recommend that when a Bill of this sort was next brought in it should be a little better considered. If they wanted to have limited liability, why not adopt the system which prevailed on the other side of the Atlantic? In America, when persons entered into a limited partnership, they advertised the names of the limited, and of the general, partners; and with respect to the former class not only the sums they had contributed, but the time for which they were to remain in the concern. An intelligent American, whom he had met the other day, told him that, in the United States, they were very jealous even of the system, and clogged it as much as possible. A limited partner was not allowed to interfere at all in the management of the concern. If he kept but a desk or a stool in the office for himself he became a general partner. To the adoption of such a system as that he (Mr. Muntz) should have no objection; but do not let parties contract debts with the public under an arrangement which no one could understand.

MR. LOWE said, he considered that he need not assure the Committee that he very much regretted the decision which had just been come to. An old school-book of his said, that two things were most contrary to good counsel—quickness and anger. He would indulge in neither. The best proof which he could give of his intention to go on with the Bill was to turn to the Amendment before the Committee. That Amendment was quite opposed to the principle of the Bill. Its effect would be that a man who had advanced money upon participation in the profits might draw out his money, leaving the concern perfectly solvent; but if two years and a half from that time the man who was carrying on the business entered into a speculation and failed, the party who had previously advanced money would have to pay

to the other creditors all that he had advanced.

MR. ARCHIBALD HASTIE said, that the right hon. Gentleman had stated that if anything occurred in Committee which went against the principle of the Bill he would abandon it; but yet, after the Amendment which had just been carried, he said that it was his intention to go on with it. If the Amendment was adopted there could be no objection to the addition of the proviso of the hon. Member for North Warwickshire.

MR. GLYN said, he was in favour of the Amendment, but he would suggest that the period to which it was designed to apply should be reduced to one year.

MR. SPOONER said, he would acquiesce in the propriety of the suggestion, and modify his proviso accordingly.

MR. W. WILLIAMS said, he should support the limitation of one year.

MR. MONTAGU CHAMBERS said, he thought the difficulty could be met by making the proviso run, "Provided that at the time the party withdrew the loan the concern was solvent." He would also suggest the further limitation of the time to six months.

MR. SPOONER said, he feared that the adoption of the hon. and learned Member's advice would lead to endless litigation. The difficulty would be to prove when the insolvency commenced. The remedy was in the hands of the party himself, by inserting a notice of the withdrawal of the money in the *Gazette*.

THE ATTORNEY GENERAL said, it was his opinion that the real question they had to determine was whether they would make a man a partner who had advanced money to a firm without any intention of becoming one? If they meant to do so, the better course would be at once to abandon the Bill; if, on the contrary, they designed that he should not be a partner, it was most inconsistent and inequitable to saddle him with any of the perils and responsibilities of partnership. The principle of the Bill was, that what a man stipulated for in the way of interest he might stipulate for in the shape of profit, but that he might make this arrangement with the borrower, that if there were profits he, the lender, should share in them, and that if there were none he should forego the benefit he might have derived if the advance had been made on the usual terms

of loans on interest. The hon. Member for North Warwickshire (Mr. Spooner) said, let the withdrawal from the concern be inserted in the *Gazette*, but if the person advancing the money were not a partner, why was he to insert that he had quitted the firm?

MR. CARDWELL said, he did not think his hon. and learned Friend the Attorney General had heard the argument which took place previous to the last Amendment. By the last division they had made a person who advanced money to a firm a partner to this extent, that the money he put in was to remain as assets for a certain time. The object of his hon. Friend (Mr. Spooner) was to take care that that provision was not evaded by the lender withdrawing his money. That proposition was on the same principle as the Joint-stock Companies Act, which provided that any person who ceased to be a holder of any share should, if the Company were wound up within the period of one year, be liable to contribute to the debts.

MR. HANKEY said, it appeared to him that the Committee seemed determined to argue the Bill as if the lenders were to have all the responsibilities of partners. If they affirmed that principle, he should recommend his right hon. Friend to withdraw the Bill. He was one of those who thought that if the Bill were carried out in its original intention, it would have a good effect, but if it was to be fettered by the Amendments proposed, the better course would be to abandon it.

MR. MALINS said, he thought there could be no more miserable and profitless occupation than that in which they were now engaged. The principle of the Bill was, that a person lending money should be absolutely free from the consequences of partnership. The Committee had negatived the principle by throwing on the lender one of the most penal consequences of a partner—the total forfeiture of the capital lent. It was attempted now to carry that further, and to say that if a man, on the 1st of January, withdrew money from a firm perfectly solvent, and that firm, on the 1st of February, entered into imprudent speculations, leading to ruin, and was insolvent on the 1st of June, the original lender should be liable, on the 31st of December, to bring the money back again. If that proposition was agreed to, he trusted that, with or without the consent of the right hon. Gentleman (Mr. Lowe),

The Attorney General

the Committee would come to a Resolution not further to waste their time.

VISCOUNT PALMERSTON said, he quite agreed that it was impossible to assent to the clause without entirely departing from the fundamental principle of the Bill. They could not alter a lender into a partner without defeating the object with which the Bill was introduced. Therefore, he had no hesitation in saying the decision of the Committee now must determine whether the Bill should be given up or not.

MR. W. EWART said, that as they had already departed from the principle, it was useless to go on with the Bill.

Question put, "That those words be there added."

The Committee divided:—Ayes 105; Noes 125: Majority 20.

Clause agreed to, as were the remaining clauses.

House resumed.

Bill reported.

PAROCHIAL SCHOOLS (SCOTLAND) BILL.

Order for Third Reading read.

Motion made, and Question proposed, "That the Bill be now read the third time."

SIR MICHAEL SHAW STEWART said, that he rose to move that the Bill should be read a third time that day three months. For his part, he could not understand why the parish school should be severed from the parish church. That was a step of which he could not approve unless they obtained some security for the religious character of the schoolmaster—that he did not hold opinions contrary to the Confession of Faith, and that he would not use his office as a means of lessening the influence of the Established Church of Scotland. His reason for moving the Amendment was that the party most anxious for the passing of the Bill—namely, the religious denomination of which the right hon. and learned Lord was a distinguished member—the Free Church party had, in a meeting lately held at Edinburgh, declared that they would take the present Bill as an instalment, as they were for the present satisfied with getting in the narrow end of the wedge. Why was it they wished to have the narrow end in? It was for the overthrow of the Established Church of Scotland. The danger to be apprehended arose not out of anything which it provided, but from those things

which it failed to provide, and he would ask the hon. Member for Perth (Mr. Kin-naird) instead of trying to get the present Bill passed, to join the right hon. and learned Lord in preparing a measure suited to the Scotch boroughs, where a change was more required than in the landed districts. A short Bill for that object had been introduced as a sister measure to the present, and he was now anxious to know what had become of it. For the reasons which he had stated, he felt it his duty to move an Amendment of which he had given notice.

Amendment proposed, to leave out the word "now" and at the end of the Question to add the words "upon this day three months."

MR. BLACK said, he thought the objections of the hon. Baronet were untenable. He denied that by this Bill the parish schools would be separated from the Church. Indeed he believed that the superintendence of the Church would be rather fortified than weakened. The minister of the parish would still retain the same power as he had before. The power of the Presbytery, as to removing the schoolmaster, was at present a mere delusion. He (Mr. Black) held that all tests were either delusions or snares and had always failed in their object. A schoolmaster's signature to a test was no indication either of his opinions or his moral character. Hume himself would have signed any test that they could devise. It was a mistake also to suppose that the test had been abolished to favour the Free Church party. The right hon. and learned Lord Advocate had shown his impartiality by refusing to adopt the test which had been proposed, and which would have been conscientiously taken by members of the body to which the right hon. and learned Lord belonged, but would have excluded other Presbyterians, Congregationalists, and all Dissenters.

MR. NEWDEGATE said, he must congratulate the right hon. and learned Lord Advocate on the dexterity with which he had changed his measure. It completely destroyed the jurisdiction of the Church of Scotland over the schools, and in lieu of that jurisdiction, which rendered the schools of Scotland models, in favour of a system of inspectors with no religious qualification whatever. That should warn the people of England how insidious were the attacks upon the Protestants system. The Bill had no recommendation save that it indi-

rectly accomplished those purposes which had been rejected by that House and the House of Lords. He looked upon it as a measure calculated to destroy the Church of Scotland, and give a heavy blow and a great discouragement to the Protestant Church of England. He was surprised that such a measure should be accepted by members for Scotland, but the English members, who had a duty to perform, would record their votes against it.

Question put, "That the word 'now' stand part of the Question."

The House divided:—Ayes 149; Noes 79: Majority 70.

Main Question put, and *agreed to*.

Bill read 3^d, and *passed*.

INCUMBERED ESTATES (IRELAND) BILL.

Order for Second Reading read.

Motion made, and Question proposed, "That the Bill be now read a second time."

MR. WHITESIDE said, he did not wish to object to the passing of the Bill if certain suggestions made by the Committee who had sat on the subject were adopted. He wished to know whether it was the intention of the Government to have the business of the Court during the remainder of its existence discharged by two of the three Commissioners who now presided over the sale and transfer of estates by this tribunal. As the House was already aware, one of the Commissioners was Mr. Baron Richards, who was also a Judge of one of the Superior Courts, and was therefore unable to discharge the duties entailed upon him by both offices. A return obtained by the hon. Baronet (Sir J. Shelley) at the beginning of the Session, when he was making an attack upon some of the Irish Judges, showed that Baron Richards had not gone circuit since 1849; and one of the witnesses examined by the Committee, Dr. Longfield, had stated that Baron Richards had not latterly been able to give much of his time to the Incumbered Estate Court. Dr. Longfield had also stated that a great deal of the time of the Commissioners was expended in hearing appeals from each other. Now, a proposition had been made by some of the Committee that Baron Richards, who was no doubt a valuable Commissioner if he could attend to his duties, should be relieved from the office of Chief Commissioner; that the other two Commissioners should be left to do the business

of the Court; but that two additional days in the week should be saved to them for the performance of more active business by constituting another tribunal—a Court of Appeal from the Incumbered Estates Court—so that they should not have to be hearing appeals from each other. He should be glad to know whether it was the intention of the Government to adopt the suggestion? If not, he would propose a clause to carry out that object.

SIR JAMES GRAHAM said, he would beg to call the attention of the House to another matter connected with the Bill under consideration, which he regarded as a matter of very great importance. If he was rightly informed, a most important judgment had lately been pronounced in one of the Superior Courts in Ireland, which gravely affected what had hitherto been supposed to be the indefeasible title of the Incumbered Estates Court, namely, the Parliamentary titles granted under the Act. If that judgment were a correct one, questions might be raised in all cases where there had been sales under that Court, and purchasers would have to go back to title-deeds anterior to the Parliamentary conveyance given under the Act. In fact, if the judgment were well founded, all titles obtained under that Court were shaken. There had been, he believed, about 5,000 sales through the medium of the Incumbered Estates Court, and there had probably been from twenty to thirty title-deeds brought into Court with each estate; and one of the Commissioners (Dr. Longfield), a very able man, had, as he (Sir J. Graham) was informed, recommended, with the view of preventing parties from going behind the Parliamentary title, that all those anterior title deeds should be destroyed. Now, if they had not been destroyed, they had been, he believed, put into something like a process of destruction, for they were stowed in a cellar into which nothing ever entered except the River Liffey, which did penetrate this deep recess, he was given to understand, from time to time, and bid fair to destroy them. Now, if the judgment to which he had alluded stood, the owner might be called on to produce his title when he no longer had access to those deeds, or when, if he had, he would find them in a state bordering on total destruction, the effect of which destruction would be to throw the whole proceedings that had taken place under the Bill, which it was thought had done so much for the

Mr. Whiteside

benefit of Ireland, into absolute confusion. He would ask the right hon. and learned Gentleman the Attorney General for Ireland to consider whether, under those circumstances, it would not be advisable, by some declaratory Act, to establish those indefeasible titles which it was the object of the Legislature to give? He could not conceive a more grave subject than this—it was also a most pressing one—it was germane to the matter now in hand, and he hoped, therefore, the House would be favoured with a statement of what it was intended to do in order to correct this state of things.

MR. J. D. FITZGERALD said, that the matter to which the right hon. Baronet had called the attention of the House was one of very great importance indeed. The moment he (Mr. J. D. FitzGerald) heard of the judgment referred to, he took pains to put himself in possession of all the facts of the case, and to get an accurate report of the observations of the Judges who had pronounced that decision, in order to bring the matter under the consideration of the Government, that they might take such steps as might appear necessary. Unquestionably the feeling of the public, and that of the Bar generally, had been that the title given to the Incumbered Estate Court was indefeasible, and that no question need be asked by the purchaser, except as to what the Court professed to sell—whether a leasehold or a freehold interest. In confirmation of the observation of the right hon. Baronet, he could state that he had himself heard one of the Commissioners say, if once a purchaser got his conveyance from the Court, the best thing he could do was to commit all previous title-deeds to the flames. That advice he (Mr. J. D. FitzGerald) believed to be perfectly sound; and there could be no doubt that in passing the Incumbered Estates Bill the Legislature intended to give an indefeasible title; and one of the difficulties which he should have to contend with, if he were now to set about framing a declaratory clause, would be to find words any stronger than those in which the Legislature had recorded that intention. The case which the right hon. Baronet had alluded to was that of “*Errington v. Rourke*.” Now, one of the most arduous and carefully performed duties of the Commissioners was the ascertaining of tenancies, and the insertion of those tenancies in the printed rental upon which they sold; and if any tenant found that he had not been served with a preli-

minary notice of sale, had not been mentioned in the draft rental, or that his tenancy was improperly described in that document, it was open to him to come in and object before the Commissioners, which he could do almost without any cost whatever. If he did not object, he was taken to acquiesce in the description which the rental gave in his tenancy. In the case in question Mr. Errington was the purchaser under the Court, but twenty acres of his purchase were refused to be given up to him by a man named Rourke, who claimed to hold under an old lease. Rourke's tenancy was not noticed in the conveyance from the Incumbered Estates Court to Mr. Errington, and the latter refused to recognise it. Two out of the three Judges of the Court of Queen's Bench, before whom the case came, held that Rourke's tenancy was not disturbed by the conveyance from the Incumbered Estates Court; but in this Mr. Justice Crampton adopted the commonly received view of the Act—namely, that it gave an indefeasible title to all conveyed by the Commissioners. That learned Judge's view was subsequently confirmed by a judgment given in another case by the Chief Justice of the Court of Common Pleas in Ireland and another Judge of that Court, and he (Mr. J. D. FitzGerald) had not the least doubt that it was a correct one. However, as the case of "*Errington v. Rourke*" would be brought to the Court of Exchequer Chamber, and subsequently to the House of Lords, he had not thought it his duty to advise the Government to introduce a declaratory enactment pending the decision of the question by the ultimate tribunal. Should that decision be against the hitherto received opinion, he should certainly recommend such an enactment. As to the question put to him by the hon. and learned Member for Enniskillen (Mr. Whiteside), he believed that an Amendment, such as that referred to, would be introduced by the right hon. Baronet (Sir J. Graham) when the House went into Committee on the Bill; but while admitting the inconvenience of having two such judicial offices as those of Baron of the Exchequer and Chief Commissioner of the Incumbered Estates Court filled by one individual, yet, having regard to the amount of business which the latter Court would have to discharge during the remainder of its term of existence—a year or two—he would not feel justified in recommending the reduction of its judicial

staff. The Act empowered the Government to make such reduction if it thought fit, for it did not oblige them to have three Commissioners.

MR. NAPIER said, he was aware of an instance in which great injustice had been done in the case of the sale of land, subject to a lease that had been seen by the Commissioners and pronounced to be valid. There ought to be no Act of Parliament to make valid such doings; the Act of Parliament ought to be made to operate the other way. He considered that the judgment of the Court of Queen's Bench was perfectly sound. All that it declared was, that the Commissioners of the Incumbered Estates Court had no right to sell away any interest belonging to third parties, the title to which appeared on the face of their own documents. He did not think a declaratory clause necessary, and he thought that Parliament had acted wisely in not introducing it. He considered that no blame attached to Mr. Baron Richards; the difficulty arose from the learned Judge going from one Court to another. From his own observation he could, however, say that Mr. Baron Richards had attended the Exchequer Court regularly. He hoped the Government would remove the Incumbered Estates Court to the Four Courts, and then the business would be conducted regularly.

MR. J. D. FITZGERALD said, that he had prepared a Resolution to the effect that the Court should, within a short time, be removed to the Four Courts.

MR. SERJEANT O'BRIEN said, that the Court of Queen's Bench had broadly asserted that they had the right to go behind the Parliamentary title, and if they could do that, he did not see how purchasers could have an indefeasible title. However, pending the appeal to the Court of Error in reference to the case which had been alluded to, he considered that it would be inexpedient to bring forward any declaratory Bill on the subject; but should the decision of the ultimate Court be in accordance with the decision of the Court of Queen's Bench, he thought it would then be necessary to introduce such a measure.

COLONEL DUNNE said, he thought the present position of the Court was inconvenient. The instance brought forward by the right hon. and learned Member for the University of Dublin (Mr. Napier) was not the first or only instance in which that Court had sold property belonging to an-

other person, over which they had no proper control. The Court was in bad odour with the public, owing to the nepotism and irregularities practised in it.

MR. M'CANN said, he was well acquainted with the sentiments of the people of Ireland with regard to the Court, and he could state that they believed it had conferred more blessings on that country than any other institution that had been established. The Chamber of Commerce in Dublin, who were as good judges on the subject as any body of persons, presented an address to the Lord Lieutenant, in which they attributed the rising prosperity of Ireland mainly to the transference of property through the means of the Incumbered Estates Court. Men now got twenty-five years' purchase for their property, when formerly they only got eighteen years' purchase.

MR. SEYMOUR FITZGERALD said, he thought that, under present circumstances, a more objectionable title than that under the Incumbered Estates Court could not be found. The late decision of the Judges of the Court of Queen's Bench was sufficient to shake the title of every property purchased under the Incumbered Estates Court. Unless the Government stepped forward and interfered by a declaratory Act, stating that all titles under the Incumbered Estates Court were indefeasible, the holders of property under that Court would be in a worse condition than the owners of any other property.

MR. I. BUTT said, he thought that the last speaker had greatly exaggerated the effect of the decision of the Court of Queen's Bench. However, he would not go into the question, as the case was still *sub judice*, but refer to one more practically urgent. He alluded to the locality in which the Incumbered Estates Court was situated. Two years ago, he obtained a pledge from the Government that the Court for the sale of Incumbered Estates should be brought into the neighbourhood of the Four Courts. It was most desirable that that step should be taken, but as yet no measures had been taken to redeem that pledge. He did not ask for another pledge on the subject, because he had experienced the little value which could be attached to pledges; but he hoped that the right hon. and learned Gentleman the Attorney General for Ireland would take immediate steps for the removal of the Court into the neighbourhood of the Four Courts. It was not a mere professional

Colonel Dunne

question. As the Court was now placed, it was away from the legal public, and so lost the superintending influence of that public opinion which was most beneficial to all Courts of Law. When he spoke of public opinion, he did not allude to the views of the unlearned public, or of newspaper writers, who seldom understood those matters. The truth was, that the junior Bar, who crowded the back benches, and who apparently had nothing to do, exercised a very wholesome influence over Courts of Law; but through the inconvenient distance between the Incumbered Estates Court and the Four Courts, a legal public—so to speak—was almost utterly wanting.

LORD NAAS said, he thought that the course taken by the Incumbered Estates Court in the case referred to was a most unusual one. The Commissioners had departed from their general practice and their rules, and that had been the cause of their difficulty. He was of opinion that anything calculated to question the validity of the title given by the Incumbered Estates Court would be one of the most unfortunate circumstances that could occur to Ireland. He would call upon the Government to lay before the House the full particulars of the case alluded to, with a view to a thorough investigation of all the facts. He hoped that the Government would carry out the pledge they had given to remove the Court from its present inconvenient position to the neighbourhood of the Four Courts in Dublin.

Question put, and *agreed to*.

Bill read 2^o.

WAYS AND MEANS.

Order for Committee read.

House in Committee.

1. *Resolved*—"That, towards making good the Supply granted to Her Majesty, the sum of £24,548,773 0s. 7d., be granted out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland."

2. *Resolved*—"That, towards making good the Supply granted to Her Majesty, there be issued and applied to the service of the year 1858 the sum of £562,028 13s., being the Surplus of Ways and Means granted for the service of preceding years."

MR. I. BUTT said, he would beg to ask if that was to be the last Committee of Ways and Means for the Session.

MR. WILSON said, he hoped it would be.

Resolutions to be *reported on Monday* next.

MR. JAMES SADLEIR AND THE TIPPERARY BANK.

On the Motion for deferring the Committee on the Joint-stock Companies' Winding-up Acts Amendment Bill,

MR. I. BUTT said, he felt called upon, in consequence of statements which had appeared in the newspapers, to put a question to the right hon. Gentleman the Chancellor of the Exchequer. Unhappily it was too notorious that frauds of the grossest character had been perpetrated in connection with the Tipperary Bank. He believed also he was not wrong in stating that according to what had appeared in the newspapers, a Member of that House had been judicially connected with those frauds. It also appeared, according to the same authority, that an active canvass was being carried on for the representation of the county of Tipperary, in expectation of the resignation of the Member who had been thus judicially referred to. Well, as that resignation could only be brought about by the acceptance of the individual in question of a nominal office under the Crown, he wished to ask the right hon. Gentleman whether there was an intention of conferring even that nominal office upon the Member for the county of Tipperary, for the purpose of vacating his seat. Of course, if the right hon. Gentleman decided in the negative, then it would be for the House to decide what course it should adopt for the vindication of its honour.

THE CHANCELLOR OF THE EXCHEQUER: Sir, no application has been made to me, either by Mr. James Sadleir, or on his behalf, for the office of the "Chiltern Hundreds," and therefore it would be quite premature to answer the question of the hon. and learned Gentleman. I can only say, if such an application should be made to me, I shall of course consider the propriety of doing so before acceding to the request.

MR. WHITESIDE said, he would remind the House that upon the occasion of the "South Sea Bubble," Members involved in those transactions were expelled the House of Commons. Perhaps a similar course might be proper under the present most scandalous circumstances. There was, however, another very serious matter arising for consideration out of those proceedings. A learned Judge, from his seat on the Irish bench, had declared that a certain person ought to be prosecuted, and that it was the duty of the Government to consider the propriety of such prosecution.

Now, it might hereafter be matter for serious investigation if, as had been stated, and stated also judicially, that the principal in those transactions, after having been allowed to walk about for some days subsequently unmolested, had finally left the country—it might, he would say, be matter for investigation how far the Government were responsible for not having acted upon the admonition thus judicially given to them.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD) said, he hoped he might be allowed to make a few observations after what had fallen from the hon. and learned Gentleman the Member for Enniskillen (Mr. Whiteside). The case of the Tipperary Bank had originally come before Master Murphy on an order of reference. That learned functionary had had before him for private examination the Member of the House whose name was under discussion, and when the Master came to deliver his judgment he acquitted all the parties before him, including the Gentleman in question, of any intentional fraud. Subsequently the case came before the Master of the Rolls in Ireland, but that learned Judge adopted the very unusual course of broaching his opinions to the public before delivering his judgment. That judgment was delivered some ten days afterwards, and when he (Mr. J. D. Fitzgerald) came to read it, he learned that the Judge had come to the conclusion that a fraud had been committed by the Member alluded to—and that he had gone further, and had impeached the conduct of the Government—or rather his (Mr. J. D. Fitzgerald's) conduct, for not having instituted a prosecution against the party implicated, as the House would observe, without any knowledge of the circumstances of which the learned Judge was in possession. Now, if the Master of the Rolls had adopted the course which became him, he ought either to have made an order directing the evidence to be laid before the Attorney General for Ireland, or in his capacity of a Privy Councillor he ought to have waited upon his Excellency the Lord Lieutenant, and apprised him that materials were before him to enable him to declare that a Member of Parliament had been guilty of a serious breach of faith. However, immediately upon having seen the judgment of the Master of the Rolls, he went to Dublin, and having examined all the documents in the case, he at once took the most active steps to set the powers of the law in motion against the

parties implicated; and all he could say, therefore, was, if the Gentleman referred to had absconded—and he (Mr. J. D. Fitzgerald) was rather inclined to the conclusion that he had not—all he could say was, that if he had absconded he did so immediately after the Master of the Rolls had delivered himself of those most irregular observations of which he had already complained. The escape, therefore, of the Gentleman in question from the hands of justice would be attributable to the Master of the Rolls, and not to the dilatoriness of Her Majesty's Government.

The Motion for deferring the Committee was then *agreed to*.

The House adjourned at half-after One o'clock till *Monday* next.

HOUSE OF LORDS,

Monday, July 7, 1856.

MINUTES.] PUBLIC BILLS.—1^a Church Building Commission; Parochial Schools (Scotland); Militia Ballots Suspension; Deeds (Scotland); Charities.

2^a Isle of Wight Steam Bridge and Approaches; Metropolitan Railway; Severn Navigation Improvement Commission; Drainage (Ireland); Distillation from Rice; Court of Exchequer (Scotland).

3^a Small Debts Imprisonment Act Amendment (Scotland).

ROYAL ASSENT.—Industrial and Provident Societies; Seamen's Savings Banks; Annuities Redemption; Stock-in-Trade Exemption.

NAWAB OF SURAT TREATY BILL.

On the Order of the Day for the Second Reading of the Bill,

THE MARQUESS OF CLANRICARDE said, that before moving that the Bill be read a second time, he should be glad if the noble Duke (the Duke of Argyll) would inform the House what course the Government proposed to take with regard to the measure?

THE DUKE OF ARGYLL said, he was rather surprised at the question of his noble Friend, who, he understood, had taken upon himself the duty of moving the second reading of the Bill as a Private Bill. He was anxious, therefore, to hear what were the grounds upon which his noble Friend recommended their Lordships to adopt this course; and he should certainly wait until he had heard those reasons, and the Chairman of Committees had given his opinion upon the expediency of taking such a course, in reference to such a subject,

Mr. J. D. Fitzgerald

before he should be prepared to state the course which the Government meant to pursue.

THE EARL OF ELLENBOROUGH said, the Bill materially affected revenues which the East India Company only held as trustees for the Crown; he wished to know, therefore, if the noble Duke was prepared, with the approbation of the Government, to give the assent of the Crown to it?

THE DUKE OF ARGYLL agreed with the noble Earl that the Bill did affect the revenues of the Crown, and he was not empowered by the Government to give the assent of the Crown to it.

LORD REDESDALE, as Chairman of Committees, thought that this, being a Bill which affected the public revenue, ought not to be treated as an ordinary private Bill. It had come before him as an ordinary unopposed private Bill, and he could not take upon himself the responsibility of stopping it; but on every ground he felt that it was a measure which ought not to be treated as an ordinary Private Bill, and so strongly was he impressed with this conviction, that at the fitting opportunity he should move as an Amendment that it be read a second time that day six months.

THE MARQUESS OF CLANRICARDE had as much reason to express surprise at the course the noble Duke had taken as the latter had to express surprise at the course he (the Marquess of Clanricarde) had taken. The noble Duke had himself volunteered on Friday to tell the House to-night what the Government intended to do with regard to the Bill.

THE DUKE OF ARGYLL explained. He was entrusted with a petition for presentation to their Lordships on Friday night from the East India Company, praying to be heard by counsel at the bar against the Bill; and in presenting it, he merely stated that on Monday when the measure came before the House he should call their Lordships' attention to the subject matter of that petition. He stated nothing more, and certainly stated nothing as to the period of the evening when he should make the statement. When his noble Friend had moved the second reading, he should be quite ready to state the course which the Government were prepared to pursue with reference to the Bill.

THE MARQUESS OF CLANRICARDE then proceeded to move the second reading of the Bill and said, that no doubt this Bill affected a portion of the revenues of the empire; but the Government did not

seem disposed to treat it as its importance demanded. He agreed with a noble and learned Lord (Lord Lyndhurst) that the Bill was one upon which the law officers of the Crown ought to have been consulted, and that the Government ought to act in accordance with their opinions. The Solicitor General, however, had spoken in favour of this Bill in the other House, and he had, therefore, a right to assume that, so far as the law officers of the Crown had been consulted, their opinion was favourable to this Bill. He asked the House merely to do justice. The President of the Board of Control had begged the other House to consider this matter judicially, and he made the same request to their Lordships. It was said that this Bill ought to be treated as a public measure. He was informed that the promoters of the Bill wished it to be treated as a public Bill, and he saw no reason why it should not have been so considered. But the Speaker of the House of Commons had objected to Mr. Pollock's Bill, and now to resort to this objection at the present stage of the Bill seemed to him to be an evasion of justice and a course unworthy of the Government and of the East India Directors. All that the parties interested wanted, and all that he asked on their behalf, was that the question should be sent before some tribunal capable of investigating the justice of the claims to which it related; and whether that tribunal were the Judicial Committee of the Privy Council or any other competent body was a matter upon which the promoters were indifferent. The Bill arose upon the construction of a treaty entered into by the Indian Government in the year 1800 with the Nawab of Surat. The whole matter of it turned upon the construction of the words of the treaty, and whether the Government were bound to pay to the heirs of the late Nawab the sum of £15,000 a year. The answer given to the claim by the Directors was a long story about matters which occurred in 1750, and a reference to the instructions given by Lord Wellesley to the political agent, as a commentary on the construction of the treaty; but you must look to the treaty itself, for it was by that you were bound, and not by anything which might have taken place before it was made. The meaning of the word "Nawab" was an officer employed under the Mogul empire, and when that empire fell into decline many of the Nawabs usurped the power which they

originally held by delegation. Such had been the case at Surat; and, so far from our establishing the first Nawab, we went there with the intention of putting another man in his place, but found that the Nawab in possession was too strong, and then, instead of disturbing, it was thought better to enter into treaty with him. The Nawabship was always considered hereditary, with this chance incidental to it—that a weak prince was very likely to be set aside by a strong one; but the Nawabs were not elected like the former kings of Poland or emperors of Germany, neither were they appointed by the English Government. They succeeded from father to son and to grandson by right of inheritance. It mattered nothing, however, what were his rights or lineage, because, if in 1800 the East India Company stipulated by treaty to pay a certain annuity to the heirs of the then Nawab of Surat so long as that race lasted, they were bound to pay it. It was contended on the other side that as the heirs male of that Nawab had failed in 1842, and he had no successor to the Nawabship, that the annuity had ceased. The question then arose whether the annuity was not granted not to his "successors" in the Nawabship, but to his heirs, which would include heiresses. On the death of the last Nawab, neither Sir George Arthur, Governor of Bombay, nor Mr. Elliot, Resident at Surat, who were directed to make inquiries, ever expressed any doubt as to the annuity being payable; the only question mooted was, to whom was it to be paid. It had been asked why had not the petitioner applied to a public tribunal in India; but the answer was that the petitioner could not do any such thing, as the questions in dispute would involve the construction of the terms of a treaty—a power which courts of justice in India did not possess. The petitioner could not apply to the Privy Council, as no Court in England had original jurisdiction in Indian cases; neither could he appeal to a court of law. Therefore he had adopted the only course open to him, and appealed to the high Court of Parliament—the tribunal to which every subject of Her Majesty had a right to come when they could not obtain justice in the ordinary courts of law. He (the Marquess of Clanricarde) quite agreed that it would have been desirable had this matter been settled out of that House, but the petitioner had no means of obtaining justice elsewhere. It was stated that

great constitutional questions were involved in this matter, and he (the Marquess of Clanricarde) admitted it; for what could be a greater constitutional question than the good government and administration of justice to an immense population? There was another and a distinct part of the Bill before the House, which related to the real and personal property of the late Nawab, respecting which a decision had been pronounced by the Governor of Bombay in Council, and against which all parties were anxious to appeal. They found, however, that they had no appeal to the Privy Council; for, upon making the experiment, the Privy Council declared itself incompetent to entertain the appeal, as it had not been referred to them by the Queen. Another plausible objection had been raised in the petition which had been laid upon their Lordships' table, that the Bill affected the rights of different parties who had received no notice and were resident in a distant country. The fact was, there was not one interested person who had not full notice of the Bill, and was not fully cognizant of its progress. Every party had appealed from the decision of the Governor of Bombay. The Bill itself was propounded last Session, and had been intended to be considered as a public Bill. But the highest authority in the other House — the Speaker — decided that it could not be introduced as a public Bill. The noble Lord, the Chairman of Committees, now said this was not a subject for a private Bill. The applicant did not care whether it came on in the shape of a private or of a public Bill, or whether any other remedy could be proposed for his grievance. It was because he (the Marquess of Clanricarde) was anxious to know whether the Government intended to propose any other remedy for an admitted wrong that he had ventured to ask the noble Duke (the Duke of Argyll) whether the Government had arrived at any conclusion upon the subject. The noble Duke could not deny that a wrong had been done. It had been admitted in the other House by the President of the Board of Control; it had been admitted by the Solicitor General, who voted for the Bill entirely upon grounds of justice. The Government could not venture to set aside a claim which was supported by such high authority. The Bill was referred to a Select Committee of the House of Commons, which was composed chiefly of lawyers eminent for their ability and knowledge of the law, among

The Marquess of Clanricarde

whom was Mr. Butt and Mr. Napier, lately Her Majesty's Attorney General for Ireland; not one of whom but was not at the present moment qualified to take his seat on the judicial bench. These four lawyers were appointed to inquire into the subject, and the Committee was presided over by Mr. Cardwell; and would any man deny that that right hon. Gentleman, by his intellectual powers, attainments, and habits, was not as able to enter into a legal argument as any man in either House of Parliament? Thus, then, they had a tribunal fit to try any case, and that tribunal reported unanimously in favour of the Bill; but they at the same time stated that there were considerations of policy which might be involved in the question which they did not think it their duty to report upon. The Bill was passed by the House of Commons by a large majority, and was supported by every lawyer in the House, except one hon. and learned Gentleman, who, though undoubtedly not retained to speak against it, it could not be denied had been for many years one of the leading counsel of the East India Company. Every man who had examined into the facts of the case had said that injustice had been committed which required redress by Parliament. He did not ask their Lordships to decide the question upon his mere advocacy; but he did implore their Lordships not to shut the door against inquiry to a person who had brought a case before them so sustained. Let it not be said that there were wrongs that might be committed by a powerful corporation, and that Parliament would not attempt to remedy those wrongs. Were their Lordships to sanction such a principle, they would be taking one great step towards shaking the allegiance of the people of India and of endangering the whole of our Indian empire. All, therefore, that he entreated their Lordships to do was, not to send back to India these persons who asked for a hearing until their case had been heard and fairly and impartially decided. The noble Marquess then moved, that the Bill be now read 2^a.

Amendment moved, to leave out ("now") and insert ("this Day Three Months").

THE DUKE OF ARGYLL said, he should support the Motion of his noble Friend the Chairman of Committees, that the Bill be read a second time that day three months. Undoubtedly his noble Friend made that Motion on a question of form; but, although in coming to that vote it might practically be one on a point of form, yet

he hoped to convince their Lordships that they would not be doing any injustice to the merits of the case. But before he proceeded to the question itself, he trusted he might be allowed to say a single word upon this point of form. Among the functions belonging to that House, there were few more important than those connected with the private Bill legislation of the country. Directed as those Bills professedly were to private ends, and the promotion of private interests—supported as they often were by an active personal canvass—they yet frequently affected the most important public principles. It was essential, therefore, for the interests of the country that the parties connected with those Bills should be required to observe the rules laid down by Parliament in respect to the passing of private Bills. Finding, then, the Chairman of Committees repudiating this Bill as a private Bill, he thought it was a strong presumption that the Bill was illegitimate in its nature, and that it dealt with its subject in a manner which ought not to be tolerated. The Bill had been referred to the Standing Orders Committee, and the Committee had reported that they had minutely inquired into this Bill; and they found that none of the standing orders which were applicable to private Bills previously to the second reading were applicable to this Bill. What did this mean? It meant that no such case was made out by the parties as was contemplated by the Committee when those orders were made. That the Bill affected the public interest was beyond question, for it dealt with the revenues of the Crown to the extent in capital of half a million sterling; and as regarded private rights, he must maintain, in spite of the argument of his noble Friend, that one part of the Bill would have a most injurious effect upon the private rights of several individuals who were totally unrepresented in this country, and who, so far as they knew, had no knowledge of such a measure being in contemplation. Under these circumstances, it was not a mere matter of form that their Lordships should strictly adhere to their standing orders. He should be ashamed to make this appeal to their standing orders if he thought it would be a denial of substantial justice to the parties; but he maintained that no substantial injustice had been committed in this case. The Bill itself concerned mainly two questions—one a question respecting the disposal of a perpetual an-

nuity, given by treaty by the East India Company in the year 1800 to the person claiming to be the heir and successor of the late Nawab of Surat; and the other a question respecting the distribution of the private estate of that Nawab. He should confine himself mainly to the first question. In the year 1800 the late Nawab of Surat died. Lord Wellesley was at that time Governor-General of India. The East India Company felt themselves entitled to take into their hands the Government of Surat; and Lord Wellesley accordingly sent down an agent with instructions not to allow the person claiming the Nawabship to assume the Government of Surat, except under the terms of a treaty to be entered into. He would read to their Lordships the terms of that treaty, on which the whole question depended. The preamble of the treaty ran thus:—"Articles of agreement between the East India Company and their successors and the Nawab of Surat, his heirs and successors." It was perfectly true that, in what might be called the enacting clauses of the treaty, the word "successors" was dropped, and the word "heirs" only was used; but it would presently be seen what interpretation this word was to bear. Immediately after the death of the Nawab, in 1842, upon whose death without male heirs this question had arisen, Sir George Arthur, then Governor of Bombay, drew up a Report upon the question, and said that on the whole he was inclined to come to the conclusion that the Company were bound to continue the annuity of £15,000 a year to the personal heirs and family of the Nawab of Surat. Governor Duncan, in his private diary, also spoke of the pension continuing until the Nawab's heirs became extinct; but from other parts of this diary, where it was declared that the Nawab and his family should be secured in constant succession to the Nawabship, he gathered that in the treaty, as well as when Governor Duncan spoke of the heirs becoming extinct, "heirs" were understood as meaning heirs to the Nawabship. The decision of the Governor of Bombay was in due course referred to his noble Friend opposite (the Earl of Ellenborough), then Governor General of India, who, having before him the minute of Sir George Arthur, the diary of Governor Duncan, and all the evidence which the claimant could bring before him, decided that with the title and office of Nawab expired all claim to the

money which the British Government engaged to pay annually by the treaty of 1800. That money, said his Lordship, was clearly to be paid as the surplus of the State revenue, after defraying all charges; it would be paid to the Nawab as Nawab; it was not made private property, to be severed from the State when the heads of the State failed. This was the decision, not of the Court of Directors (who, he feared, were at the present moment exceedingly obnoxious, and who had incurred a great deal of public odium in this matter), but it was the interpretation put upon the treaty by the then Governor-General of India, under the guidance and advice of the able men whom he had with him in Council at that time. This very minute was signed by Mr. Thomason, one of the very ablest men in the East India service, and whose administration as Governor of the North Western provinces had been the subject of such just eulogy. Surely the House would be satisfied with such authority. It was not usual for Parliament to interfere with the construction of treaties unless some injustice had evidently been done by the constituted authorities, and he called upon any independent Member of their Lordships' House to say whether there was such a *prima facie* case of gross injustice as would justify Parliament in interfering in this question either by a private or a public Bill? As to the decision of Sir George Arthur, he strongly suspected that that decision was not so much founded upon a strict construction of the treaty as upon the opinion he entertained that it would be an act of liberality on the part of the East India Company, failing male heirs and failing the nawabship, nevertheless to continue the pension, as a matter of grace and favour, to the members of his family. He was very much confirmed in this impression by a minute drawn up by Mr. Anderson, then a member of Sir George Arthur's Council, who said he doubted if, at the time the treaty was entered into, the lapse of the nawabship was thought of; he believed the pension was intended for those who filled the nawabship. Mr. Anderson's opinion was that the annuity was to be tied up with the title, and in another minute Sir George Arthur said he was glad Mr. Anderson's opinion coincided with his own. He (the Duke of Argyll) thought, then, he was justified in assuming that Sir George's decision with regard to the pension was not founded upon the

The Duke of Argyll

legal merits of the case, but was merely a generous concession made upon a liberal consideration of all the circumstances of the case. The noble Marquess had endeavoured to cast odium upon the Government of India, as directed by the East India Company, with regard to this matter; but, in point of fact, he could only find that two documents had been sent by the Board of Directors bearing upon the case, and both were to the effect that larger pensions than had been awarded by the local Government should be granted to the family of the late Nawab. The Government of Bombay, acting upon the general instructions of the Board of Directors, had appointed an agent to inquire into and report upon the circumstances of the case and upon the pensions allotted to every member of the family of the late Nawab. The result of that report had been that the Board of Directors had informed the local Government that the pensions which had been allotted were not sufficiently large, and, in fact, £11,000 out of the £15,000 claimed was distributed among the family by their order. Was it, then, fair to take advantage of a passing feeling of hostility against the East India Company in order to bring charges of such a character against them? For his own part, he was prepared to maintain that the East India Company had behaved well towards the family of the late Nawab of Surat, and he hoped that the noble Marquess would not suspect them or the Government of wishing to behave shabbily towards that family. As regarded the course which Her Majesty's Government proposed to pursue, he was not prepared to say that the Government might not refer to the Judicial Committee of the Privy Council a question arising out of this case for their decision; but, even if they did, it was difficult to determine what course it would be expedient to pursue, whatever might be the decision of the Judicial Committee. But, notwithstanding that difficulty, he wished to impress upon their Lordships that the Government in rejecting the present Bill, and in calling upon the House to reject it, by no means precluded themselves from such reconsideration of the case as the circumstances of it might appear to require. Great odium had been cast upon the East India Company with regard to this transaction; but he would bring the attention of their Lordships to some of the facts of the case. Their Lordships were aware

that it was one of the privileges of high rank in India not to be subject to local jurisdiction, and there was a special agreement with the Nawab of Surat that he should be exempt from the jurisdiction of the ordinary courts of the country. When the late Nawab died a question arose as to the disposition of his property, and, on the suggestion of Mr. Arbuthnot, a special Act was passed to appoint an agent to inquire into and decide upon the subject, and providing that against that decision there should be no appeal, and to that Act the claimant, in the present case, was a consenting party; and not only was he a consenting party, but he objected that under the second clause of the Act, as it was originally drawn up, the agent was not entitled to deal as freely with the property as he ought to be, and he suggested a clause giving the agent fuller power; and that clause was the very one against which he now protested. It was preposterous that the claimant in the present case should now come before Parliament and represent that he was precluded from appeal when he had himself acquiesced in that exclusion. It would be impossible for the Government to consent to have the case re-opened as this Bill attempted to re-open it, when a number of persons, many of them comparatively poor, had for several years been in possession of this property, under the conviction that the matter had been finally decided. The Government were not taking advantage of a mere question of form. They denied the justice of this person's claim, and they thought it would be unjust to the Government of India and the parties concerned to reopen the question, either by a public or a private Bill.

THE EARL OF ALBEMARLE said, he coincided with what had fallen from the noble Marquess respecting the Government, for, on a question relating to India, there was the old juggle of a double Government—at one time it was the East India Company, at another the Board of Control—and the consequence was a mere jumble and confusion. As for the petition of the East India Company—what was the Company?—why for thirty-three years it had been a board subordinate to the Government—a part of the Executive—and he did not know what right they, as a subordinate part of the Government, had to be heard at the bar against the rest of the Government. The Treasury or the Admiralty might just as well apply to be heard against their superiors.

The petition stated that this was the first private Bill which had ever dealt with a subject of this kind. But in 1833, when a case of similar character occurred, the complainant, Mr. Hodges, obtained redress by means of a private Bill. As to the fourth paragraph of the petition, he said he never knew a greater number of statements not borne out by the truth disgrace any petition. The petition stated that the treaty of 1800 was negotiated by the Marquess of Wellesley; that the first of the family of the late Nawab had been raised to the musnud by the East India Company in 1759; and that the Company had always refused, up to 1800, to treat the dignity as hereditary. The facts, however, were that that treaty was concluded by Governor Duncan; that the first of the line of the late Nawab gained possession of the country in 1748, and kept it till he was turned out in 1758, but he became Nawab again the same year without the agency of the Company; and that, in 1798, which was before 1800, the claim of the then late Nawab's son was recognised as hereditary. There were two kinds of Nawabs—the one was a viceroy, the other possessed a merely titular dignity. Before 1800, the late Nawab was a viceroy, and afterwards was reduced to the dignity of the title—he became as it were a Nawab *in partibus*. But the noble Duke argued that, if there was a failure of male heirs, there must be a failure of the title. Why, John, Duke of Marlborough, received the manor of Woodstock and a pension of £5,000 a year; and did any one believe that, in case of a failure of male heirs in that family, the manor and the pension would be resumable? He, at all events, did not think they would. A member of a Dutch family—the De Ginkell—came over to this country with William III., and was created Earl of Athlone. The last male representative of that nobleman had lately died, and the title became extinct, but the estate was now enjoyed by his daughter. That was a case analogous to the present. Again, the Stanleys, Earls of Derby, had been the Kings of Man, and all their sovereign rights descended to a female. He had said enough to show that no reliance was to be placed upon the petition of the East India Company.

THE EARL OF ELLENBOROUGH thought that the noble Duke had gone so satisfactorily into this question that it was not necessary for him to detain their

Lordships at any length. He had been on many occasions compelled to differ from the Court of Directors of the East India Company, but he was satisfied that in the present case they had done their duty as representing the interests of the people of England and of India. The question now before their Lordships was not one between the promoters of this Bill and the East India Company, who had no personal interest in this matter; the question was one between the promoter of this Bill and the people of India, whose money he desired to take away for his private purposes, as he (the Earl of Ellenborough) believed wrongfully; and therefore he opposed the Bill. As far back as the year 1800 a negotiator had made a treaty, in which, like a recent diplomatist, he had not expressed himself with sufficient precision. He had no doubt that the idea of the continuation of the pension, guaranteed to the Nawab and his female descendants, never could have occurred to Governor Duncan as the possible construction of the treaty. He never could have supposed that the descendants could claim anything that was not part and parcel of the nawabship. The Government consulted with Mr. Thomason, who was, perhaps, more competent than any one else to give an opinion on this subject, and who was not only an able and thoroughly conscientious man, but intimately conversant with Eastern habits and Eastern customs and with Mahomedan law. The present question, indeed, seemed to him to be one, not so much for English as for Mahomedan law. The treaty was an Indian treaty, contracted between Indian potentates; while our lawyers had construed it as they would have construed an English deed, giving an annuity to the descendants of an English nobleman. The treaty came under the consideration of the Indian Government in 1843. The documents must have been in the possession of the President of the Board of Control (the Earl of Ripon) in November of that year, and it was for him, if he thought that an erroneous impression prevailed, to call for the opinion of the law officers of the Crown. He (the Earl of Ellenborough) had done that at the Board of Control whenever he had doubts as to the legality of any Indian decisions, so that the law might be corrected if it were erroneous. That decision had been adopted by two Indian Governments, and had been adhered to by three or four Presidents of the Board of Control. Would

The Earl of Ellenborough

their Lordships allow him to bring the question into Europe, and to place it more palpably before them than if it were an Indian question? Let him imagine the possibility that the Principalities of Moldavia and Wallachia, which now acknowledged the suzerainty of the Porte, and paid to it a certain sum, desired to relieve themselves from their nominal suzerainty, and that they were permitted to do so, upon the condition that they contracted to pay a certain annual sum to the Sultan and his heirs. Was there any man in that House or in Europe who would say that, if the dignity of the Sultan were extinguished the Principalities of Moldavia and Wallachia would continue after the decease of the Sultan to pay the money to the Pashas who had married his daughters? Why, such an interpretation would be repudiated by the common sense of mankind. In any public treaty it would be the common understanding of European nations that the annuity applied only to heirs male. In India there was no knowledge of heirs female, or of any suzerainty as attached to them. He could not attach great weight to the opinion of a purely English lawyer upon a matter of Mahomedan law; but, considering the knowledge of Eastern habits and Indian law possessed by Mr. Pemberton Leigh and the Judicial Committee of the Privy Council, he should feel satisfied if the true construction of the treaty were submitted to that body. What he desired was, to get the matter out of that House and out of Parliament. The Bill was a bad precedent. Already he knew of two or three similar cases, which were only awaiting the decision which their Lordships might come to; and he would caution their Lordships that if they took this first step they would find it very difficult to stop. He deeply regretted that it should have been necessary for the Privy Council to decline to entertain the appeal. It had been done, and there was no remedy; but the conclusion which would be most satisfactory to him would be for the promoters of the Bill to be placed exactly where they would have been if the Privy Council had been able to entertain the appeal. He thought that, as regarded the most important points on which rested the claim of the petitioners, the view taken had not been that of a judicial mind, and that, most probably, the decision of the Judicial Committee of the Privy Council would reverse it. He earnestly desired to submit to that tribunal the question whe-

ther, by the treaty of 1800 the annuity granted to the Nawab and his heirs was descendible to heirs general, or only to heirs male.

THE MARQUESS OF CLANRICARDE said, the noble Duke had been grossly misinformed with respect to the personal property of the late Nawab, as not one sixpence of it had, as yet, gone into the hands of his heirs, as the distribution of it was still *sub lite*. He had, however, such confidence in the noble Duke, that when he said the case should be placed before the Judicial Committee, and their decision carried into effect, he had no doubt justice would be done to all parties. But he trusted that when the matter had been thus inquired into, steps would be taken to carry the decision of the Privy Council into effect, even although a special Act should be required to enforce it. He had been accused of doing that which he had not done; but he would now earn some portion of that accusation by declaring his opinion that the conduct of the Court of Directors was very bad, very unwise, and open to great reproof, which reproof they had received for the litigation with which they persecuted the people of India; and they were now unpopular, because the people of this country thought that they were guilty of great injustice to the Indian people.

After a few words from Lord DENMAN,

On Question, that ("now") stand part of the Motion, *Resolved* in the *Negative*; and Bill to be read 2^a, on *this Day Three Months*.

CONVOCAATION.

LORD REDESDALE presented a petition from certain Members of the Convocation of the Province of York, praying the House, before proceeding with the Church Discipline Bill, or any measure specifically affecting the clergy, the same may be submitted to the clergy of both Provinces in their Convocations now lawfully in being under the Royal writs addressed to both Archbishops respectively. He thought it unjust that one set of proceedings should be adopted with regard to the Province of Canterbury, and another mode of proceeding with respect to the Province of York. He entertained a strong opinion that if the Convocation of the Province of York was put upon a proper footing much good might result from it. He thought the manner in which the proceedings in Convocation of the Province of Canterbury

were conducted showed that all those apprehensions which had been entertained by parties as to their dangerous character were altogether unfounded. Of course, in all public assemblies they must expect differences of opinion, and when discussions took place they were not always conducted in the manner in which it could be wished they should be; but because matters of difference might occur that was no argument against such assemblies altogether. It was very desirable that the Church should represent itself. At the present moment the Church was abused for many things for which it was really not responsible, and it was unjust that it should not be allowed to express its opinion as to what should be done in reference to such questions. At the same time, some improvement ought, he thought, to take place in the constitution of the bodies to which he was referring, and the first and most obvious improvement was the fusion of the two Provinces. Nothing, he was aware, could be done now beyond calling public attention to the matter, but he hoped some attention would be given to the subject of the petition, and that the same privileges would be given to the Convocation of one Province as were enjoyed by the other.

Petition to lie on the table.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Monday, July 7, 1856.

MINUTES.] PUBLIC BILLS.—1^o Consolidated Fund (Appropriation); Criminal Justice; Unlawful Oaths (Ireland); Militia Pay; Grand Jury Cess (Mayo); Railways Act (Ireland) 1851, Continuance; Turnpike Acts Continuance (Ireland).

2^o Appellate Jurisdiction (House of Lords).

3^o Courts of Common Law (Ireland); Commons Inclosure (No. 2).

CORPORATION OF LONDON REFORM— QUESTION.

SIR JAMES DUKE asked the Secretary of State for the Home Department whether the Government would assist the corporation of the City of London in passing a Bill, during the present Session, to extend the right of voting in the election of Aldermen and members in the Common Council to all occupiers within the city who were on the Parliamentary register?

SIR GEORGE GREY said, that, as he understood, the Bill referred to, of which he had received a copy from the Recorder,

was limited to the object of amending the Act of 1849, having relation to the right of voting for the election of aldermen and sheriffs. This was a very desirable object, and was provided for in the measure for the amendment of the constitution of the Corporation which had lately been withdrawn; but he doubted the policy of introducing a Bill limited to that single object. Besides, the Bill of 1849 was a private Bill, and any Bill to amend it must of course be introduced in the same form; but the regulations of both Houses of Parliament would prevent a private Bill from passing at this period of the Session.

MR. JAMES SADLEIR AND THE TIPPERARY BANK—QUESTION.

MR. G. H. MOORE rose to ask the question of which he had given notice—whether it was true that Mr. James Sadleir had been permitted to leave Ireland without having been arrested; and whether any steps had been taken for the arrest and prosecution of the said James Sadleir by Her Majesty's Government? It was well known that John Sadleir, the late Member for Sligo had been involved in commercial frauds which had no parallel in the criminal history of this country. Who were his confederates and accomplices in these frauds was not yet made public, though the proceedings in the Irish Court of Exchequer pointed to his brother, James Sadleir, as one of the parties. It was also well known that John Sadleir was engaged in a political conspiracy, his associates in which were not doubtful. Relatively to the character of the transactions in which he had been engaged they were regarded by public opinion in Ireland—

MR. SPEAKER called the hon. Member to order. He was to confine himself strictly to the facts in the petition, and such statements as were necessary to make those facts intelligible; and he was not to go beyond them, or make any comment.

MR. G. H. MOORE proceeded. About a month ago the Master of the Rolls in Ireland delivered a charge on the case of the Tipperary Bank, in which he expressed great surprise that the Irish Government had not instituted proceedings for fraudulent conspiracy against James Sadleir, and he went so far even as to say that he should not be surprised if the public held them accountable for his frauds in the event of his escape. The Attorney General for Ireland had on a former occasion told the House that he had gone to Dublin,

and taken all the steps necessary to put the powers of the law in force in the case. That was about a month ago. He (Mr. Moore) therefore wished the right hon. Gentleman to state also what were the steps which he had taken to put the law in force, as well as to answer the question of which he had given notice.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD) said, he would not follow the hon. Member's example, but would confine himself to the question put on the paper, and avoid extraneous matter. He had already stated the facts in reply to a question put to him on Friday night, or rather Saturday morning. It was quite true that about a month ago, in the early part of June, the Master of the Rolls, in making observations on a case before him, did use expressions tantamount to what was stated by the hon. Member for Mayo, or rather, more strictly speaking, to the effect that, if the Government did not prosecute some person, whom he did not, however, name, the public would consider them guilty of complicity with his crime. In other words, he charged the law officers of the Crown with a dereliction of their duty in not having already instituted a prosecution against that individual. The answer he (Mr. Fitzgerald) gave to this was a statement of the fact that the case had been before another Judge previous to the Master of the Rolls making these observations; and that this Judge, Master Murphy, in whose department the case was, had not only accused no one of fraud, but had acquitted the parties who were before him of all implication in it. He (Mr. Fitzgerald) had further stated, that until he had read these observations of the Master of the Rolls he was wholly unaware of the facts of the case, inasmuch as no one had complained of fraud in connection with the parties in question, and no one had called upon the Government to commence a prosecution against them. But that, when these observations were made, he had felt it to be his duty to pay them the attention which was due to them; that he had proceeded to Dublin accordingly; and that he had not been able to find within the reach of the Crown a single fact, a single document, or a single witness, which would enable him to take any steps in a prosecution. The Master of the Rolls was to deliver his judgment in a few days, but he deferred it till the 22nd of June; and when he delivered it the Court was attend-

Sir George Grey

ed by an officer on his (Mr. FitzGerald's) part, or rather on the part of the Crown, in the hope that the evidence on which the judgment was founded would be placed in the hands of the Crown Solicitor to be submitted to the law officers of the Crown. The Master of the Rolls delivered a lengthened judgment on the occasion, but he did not give the documents in question; though he (Mr. FitzGerald) was bound to state, in justice to that learned Judge, that subsequently he received every assistance which he could afford him. The steps since taken by the Crown in the case were of the promptest character. Considerable difficulty was experienced, as the persons expected to be witnesses were either in communication with the parties implicated or in the employment of Mr. James Sadleir, and evidence was moreover to be sought from this country. He had stated on Friday night that he did not consider it for the advantage of the public to press him to answer the question put by the hon. and learned Member for Youghal. He would, however, say, that the most active steps had been taken in the case, and warrants had been issued for the arrest of Mr. James Sadleir, both in this country and Ireland, on some day in the early part of last week, certainly before Friday. The hon. Member for Mayo had asked if Mr. James Sadleir had been permitted to leave Ireland? Knowing from the former course of the hon. Member what the meaning was that he put on that question, and that he intended to convey the imputation that if Mr. James Sadleir had escaped it was with the connivance of the Government, he (Mr. FitzGerald) had only one answer to give to that question—it was not the fact. He would add, that from the earliest moment the question was brought under his cognisance he had taken the most active steps to prevent Mr. James Sadleir leaving Ireland; and the report of the officers appointed for the purpose was, that he had not left since the 17th or 18th June. If he left before that time, therefore, it was in consequence of the irregular observations of the Master of the Rolls, and not through any fault of the law officers of the Crown.

ARCTIC EXPEDITION—QUESTION.

MR. W. BROWN asked the First Lord of the Admiralty, whether he had any official information of an event that had occurred in the United States touching the British vessel of war *Resolute*, which had

been abandoned in the ice, and was met by a whaler floating about, and which was carried into the United States? The American Government paid the salvage to the whaler, and the American Senate had passed an unanimous Resolution, in which the President and the Secretary of State concurred, that the vessel should be fitted out and restored to Great Britain.

SIR CHARLES WOOD said, that the circumstances mentioned by the hon. Gentleman, if accurate, were certainly very creditable to the Government of the United States; but no official report on the subject had been received by Her Majesty's Government. The vessel referred to was, no doubt, one of the Arctic discovery ships that was abandoned a few years ago, and subsequently found adrift in the ice by an American whaler, which put a crew on board of her and took her to the United States. Her Majesty's Government had been asked, whether they would claim her, and they answered in the negative, thinking that those who picked her up after she had been abandoned were entitled to retain her.

HER MAJESTY'S SHIP "TERMAGANT"—QUESTION.

ADMIRAL WALCOTT wished to ask the First Lord of the Admiralty, whether it be correct that a malignant fever has for a second time broken out on board Her Majesty's ship *Termagant* on the West India station; and, whether, if this be so, the Board of Admiralty has given orders, or propose to give them, for the immediate removal of that ship from a station apparently so ill adapted, from her imperfect means of ventilation, to insure the health of her officers and crew.

SIR CHARLES WOOD believed that the vessel alluded to by the hon. and gallant Member was the *Termagant*. It was not correct that there was malignant fever on board, although, as was not uncommon in the West Indies, some cases of yellow fever had certainly occurred in her, and she had therefore been sent to the northward, which it was well known was one of the best specifics for that malady.

VACCINATION BILL—QUESTION.

MR. T. DUNCOMBE asked the right hon. the President of the Board of Health, if he could fix any time when the Vaccination Bill would be brought on?

MR. COWPER said, the Bill was one in which Members did not take any great in-

terest. It was one of that class of Bills which was usually taken at a late period of the evening, and he hoped the hon. Member would not object to its being taken at the same time as other Bills similarly situated.

MR. T. DUNCOMBE, referring to the answer given by the hon. Member for Hertford (Mr. Cowper), asked whether it was the intention of the Government to persevere in pressing this Bill through the House. The hon. Member had, to a similar question with respect to the Medical Profession Bill, immediately surrendered it; but to those on this side of the House, he said few Members cared for this Vaccination Bill. He (Mr. Duncombe) would say that, if hon. Members did not care for this Bill, they did great injustice to the people, because it was a compulsory Bill. Besides, 200 petitions had been presented against the Bill, and only one, namely, that from the Royal Vaccine Establishment, in its favour. The Bill, if passed, would be put into work by the Board of Health; but that Board would expire next year, unless the House should to-morrow consent to continue it. A more arrant job than this Bill he never knew, and he hoped an opportunity would be given to oppose it.

MR. COWPER said, he did not mean to say the Bill was of no importance, because it was intended to check the ravages of a disease which killed thousands every year. This Bill was one of greater importance than many which were passed, and which did no good to anybody. What he intended to say was, that the opposition which his hon. Friend made to this Bill was not generally shared in by other hon. Members. His hon. Friend said, the Bill would make vaccination compulsory; but the present law did that. This Bill was merely for the purpose of consolidating and improving the law. His hon. Friend opposed this Bill; but it would be much fairer for him to bring in a Bill to repeal the existing law than to do so. He would not bring it on after twelve o'clock at night.

THE MASTER OF THE ROLLS AND THE ATTORNEY GENERAL FOR IRELAND—EXPLANATION.

COLONEL FRENCH wished to take the present opportunity of expressing his regret at the observations which had fallen from the right hon. Gentleman the Attorney General for Ireland, on a former evening relative to the Irish Master of the

Mr. Cowper

Rolls. He regretted that such observations should have fallen from one in the position of the right hon. Gentleman, and he begged to say that there was not in England or Ireland a person of higher honour or of greater legal attainments, or a Judge in whom the public had more confidence, than the present Master of the Rolls in Ireland. ●

MR. J. D. FITZGERALD expressed his entire concurrence in what had fallen from the hon. and gallant Member, as to the character and legal acquirements and high honour of the Master of the Rolls in Ireland; but he had stated, that he thought the observations of the learned Judge, on the case referred to, were irregular; and that, if a person charged with crime had left the country, his doing so had been brought about by those observations.

MR. NAPIER said, in consequence of the observations of the Attorney General the other evening, he had written to Ireland to ascertain the true state of the facts in this case.

WAYS AND MEANS.

SIR HENRY WILLOUGHBY then said, he had given notice of calling attention to a most important matter. The Resolutions before the House passed at one o'clock in the morning, and the House had been entirely deprived of the opportunity of judging of the state of the finances of the kingdom in consequence of the total absence of the accounts relating to the past expenditure. The House knew nothing of the financial transactions of the country up to the end of March last. The papers were laid upon the table so late as to be of no use to hon. Members during the Session. This year the papers were presented to the House on the 10th of June, but not in time to prevent the House voting money without any knowledge of the previous expenditure. Last year the papers were laid on the table in July, but were not printed and sent to hon. Members until the 6th of October, so that, in point of fact, the House decided questions without having accurate information. The delay which occurred in laying the accounts on the table of the House was productive of serious inconvenience, and gave rise to a most anomalous state of things; hon. Gentlemen voted away millions of money without knowing in what manner it was expended. He called upon Her Majesty's Government so to arrange matters, as to have the accounts printed earlier, and in

the hands of Members before they left town for different parts of the country.

THE CHANCELLOR OF THE EXCHEQUER said, if the hon. Gentleman meant that they should return to the old system of financial accounts, he would be still further than now from getting the information he desired, for the accounts were then made up to the 5th of January, whereas the financial year did not end till the 5th of April. With regard to the production of the accounts, he might state that the whole of them were in the hands of the printers on the 4th of June with the exception of those of the Land Revenue Department. The Department of Land Revenue had to call in the accounts of the various Crown estates, a duty which was attended with delay and difficulty; and the Commissioners had not yet succeeded in making up their accounts. When they were completed, however, he could assure the House that no delay would take place in having the whole laid on the table.

MR. W. WILLIAMS must say, that the public accounts were in a most unsatisfactory state—in such a state as to render it necessary for that House to take measures for providing a remedy. He had endeavoured, time after time, to ascertain what had become of the enormous amount voted for the militia in 1855—a sum amounting to £3,800,000. Not more than 65,000 militia had been embodied—a number coming very far short of what had been voted by Parliament, and yet nobody could inform him what had become of the money granted by the House. It was high time for the House to take steps towards securing the necessary information as to the expenditure of the public money.

MR. DISRAELI thought that what the right hon. Gentleman the Chancellor of the Exchequer had stated, with regard to the importance of the finance accounts terminating at the end of the financial year was quite unanswerable. Any other mode of making up the accounts would be most unsatisfactory; but at the same time it did not appear to him that the other portions or the right hon. Gentleman's statement were quite so much to the point. What he should like to know was, why the accounts, if they were ready for the printer on the 4th of June, were not yet on the table? They might have been printed in a week. What the right hon. Gentleman said as to the Land Revenue Department not being prepared with

their accounts was by no means satisfactory, because the question still remained, why were they not prepared? The right hon. Gentleman had ample power in this matter, and he should have issued orders to have these accounts forwarded in due time. At all events, the House might have had before it other accounts which were of much greater importance than those connected with the Land Revenue Department. It was exceedingly important that they should have in their hands the various accounts in the form in which they were drawn up, and it was the duty of the Government to see that these were regularly laid before them, as every one must feel that the present state of matters was highly unsatisfactory. It would be out of the question to think of returning to the old system, as that would give them no information whatever, but there was no reason why in two months' time, after the closing of the financial year, the whole of the accounts should not be laid on the table.

SIR FRANCIS BARING agreed with the Chancellor of the Exchequer, that to make up the accounts to the end of January would not afford the explanation which was asked for; but, at the same time, the present system was full of inconvenience. Last year the accounts were not produced till after the close of the Session, and this year the whole of the Supply had been granted, and the accounts were not yet on the table. This subject had not escaped the attention of the Committee for which he had moved, and he trusted they would be able to make some valuable suggestions on this subject.

SIR H. WILLOUGHBY explained that he had been misunderstood by the Chancellor of the Exchequer. He did not want to go back to the old system of finance accounts; but he thought the statesmen of the reign of George III. were wiser than the statesmen of the present day, for they always got their financial accounts by the month of May.

THE CHANCELLOR OF THE EXCHEQUER said, it was a mistake to suppose that the Government had any wish to withhold accounts and information from the House. Nothing, indeed, could be further from the truth. The Government were anxious to lay the accounts on the table at the earliest possible moment, but it was necessary to wait until they were completed. There was one important account—that of Land Revenue—which it

had not hitherto been in the power of the heads of departments to exhibit in a complete form. When it had been finished the other accounts would be presented to the House.

Resolutions *agreed to*.

APPELLATE JURISDICTION (HOUSE OF LORDS) BILL.

Order for Second Reading read.

THE ATTORNEY GENERAL moved the second reading of this Bill, and said it was one that had come to them from the House of Lords, where it was introduced upon the Report of a Committee appointed to inquire into the exercise of the appellate jurisdiction of that House, with the view of seeing whether any Amendments might be suggested. That Committee, after receiving a great deal of very important evidence, made a Report to the House of Lords, which in substance declared that the appellate jurisdiction of the Upper House as now exercised was not satisfactory, and that the time had arrived for making certain improvements which they recommended, and the principle of which were embodied in the present measure. There could be no doubt of the great importance of the subject. The House of Lords, as they all knew, exercised in all suits, both at common law and in equity, a jurisdiction as a Court of Appeal in the last resort, and by its decisions all such suits were finally settled and determined. Now, it was perfectly notorious, and he thought could not be contradicted, that for some time past great dissatisfaction on the part of the suitors and of the legal profession had existed with respect to the manner in which the appellate jurisdiction had been exercised. Hon. Members were aware that, although the appellate jurisdiction was vested, according to the theory of the constitution, in the House of Lords, yet practically it was not exercised by the whole body of the Members of that House, but was left in the hands of those Members only who were holding or had held high judicial office. With the exception of the Lord Chancellor for the time being, and the Lord Chief Justice of the Queen's Bench—who was, and generally had been, a Member of the House of Lords—the Judges of the Court had consisted of those who had formerly held the office of Chancellor, with the occasional but very rare exception of other Members of the House who had belonged to the legal profession. A body of Judges so composed was open to

The Chancellor of the Exchequer

several inconveniences. It was quite clear that the number of such Judges—that was to say, Judges not exercising actual judicial functions—must depend more or less upon accident. Sometimes the number of ex-Chancellors had been considerable; at others it had been comparatively small. A long Administration, during which the Chancellorship remained in the same hands, would have a tendency to limit the number; while, on the other hand, frequent changes of Government would increase the number of those who had held the Great Seal. Again, the circumstances of age and infirmity must be taken into account as exercising an influence with respect to the attendance of those who hold seats in the House of Lords under the designation of “law Lords.” But, lastly, supposing that there was a sufficient number of law Lords to furnish a requisite body of persons to act as Judges on appeals in the House of Lords, there was nothing, except in the case of a person holding a judicial office like the Lord Chancellor, to make it obligatory on them to attend. Their attendance was purely voluntary. Considerations of personal convenience or other occupations might make the number who attended extremely small. The result had been, that for some time past the number of law Lords attending on hearing of appeals had been reduced below the point which was at all satisfactory either to the suitors or the public. It had frequently happened that not more than two Judges had sat on very important appeals, and not unfrequently the number had been reduced even to one. Now this was a state of things which must be deemed unsatisfactory, when it was considered that the House of Lords was the appellate tribunal in the last resort from Courts of Error, also courts of high authority, and that in cases which came before them they might have to adjudicate on matters theretofore decided on by two of the Courts of common law, perhaps confirming the decision of a third, or, in equity, cases which had been decided by the Lords Justices, confirming, perhaps, in like manner, the judgment of the Master of the Rolls or one of the Vice Chancellors, or, lastly, on cases which had come up from the Court of Session in Scotland, which consisted of a number of Judges who were surely better acquainted with the principles and rules of Scotch jurisprudence than any English Judge or Judges, however eminent, could possibly be. In all these cases the decision in the highest and last

Court of Appeal might be the decision of a single law Lord. But, again, in many instances, where two Judges sat in the House of Lords, the evil was, if possible, greater. Nothing had been more frequent of late than to see the two Judges in the House of Lords divided in opinion; the effect of which was that the judgment of the inferior Court could not be reversed, and was held to be affirmed. That occurred several times when the Lord Chancellor and Lord St. Leonards sat together as Judges, being the only law Lords present; and the effect had necessarily been to cause a feeling of great dissatisfaction. In a case mentioned in the evidence there had been conflicting decisions given by the Court of Exchequer and the Master of the Rolls. There was an appeal from the judgment of the latter, and it was heard before two law Lords; they differed, and the result was that the judgment of the Master of the Rolls was confirmed, notwithstanding the conflicting decision of the Court of Exchequer. Meantime there were several other suits in Chancery standing over to await the result of the appeal which had thus proved abortive. If it happened that the Lord Chancellor was sitting alone, he might confirm by his own judgment a decision which he had given in the Court of Chancery in opposition to that of an inferior Court—a state of things which must strike every one as the reverse of what was desirable in a Court of final appeal. But not only was the composition of the House as an appellate tribunal unsatisfactory, there was another inconvenience which nothing but the interference of Parliament could remedy. The sitting of the House of Lords as a Court of final appeal could only be coextensive in time with its sittings as a branch of the Legislature; so that from the prorogation of Parliament until the Parliament met again all appeals were necessarily in abeyance. Nothing could be more inconvenient than this delay, especially where the appeals were in matters of injunction or specific performance; and, according to the evidence given before the Committee of the House of Lords, it led to this further inconvenience, that the shortest period within which an appeal could be brought to hearing was at least two years. All these matters were subjects of grave and serious consideration. He had omitted to notice other topics brought forward in evidence before the Lords—the want of the externals of judicial office, the absence

of a specific dress—the want of a common combination as regards sitting, enabling the Judges to hear one another and hold communications together, so necessary for the due administration of the judicial office; and the grievous expense of which parties complained, arising from the proceedings in the House of Lords; because these were matters which did not require the interposition of the Legislature, as they might easily be corrected by arrangements made by the House of Lords itself. The matters, however, to which the present Bill related could not be corrected except by the interposition of the Legislature. An efficient number of the Judges could not be secured, their attendance could not be compelled, and the sittings of the Court of Appeal could not be made like the sittings of any other Court, extending over the whole judicial year, except by passing an Act of Parliament; and hence it was that the present Bill was necessary. He was well aware that very strong objections had been urged to this Bill from various quarters, arising, perhaps, from different considerations; but the question for the House to consider dispassionately was, whether, when the evidence taken before the Lords' Committee demonstrated that the administration of justice by the House of Lords, as an appellate tribunal, was glaringly unsatisfactory to the suitors and the public, it was not necessary to do something to meet the evils complained of, and to improve the character of the House of Lords as a judicial tribunal in the last resort; and whether the present Bill did not offer the best practical remedy, and, indeed, under the circumstances, the only remedy that could be devised? He knew that many persons thought that the simple and shorter course would be to withdraw from the House of Lords the appellate jurisdiction. [*Cheers.*] He found by that cheer that he was not wrong in anticipating that that argument would be urged; but to such a course were there not very serious, if not insuperable, difficulties? Even if such an object could be accomplished at all, it was likely that great delay would take place before it was attained, and in the meantime the unhappy suitors would be left in the same position as they stood in at present. Many persons conceived that to deprive the Lords of their judicial functions would be to strip them of one of the chief elements of their importance and dignity. He owned he could not bring

himself to look on the matter in that light. He did not see the necessary connection between the functions of the House of Lords, as an integral portion of the constitution and Legislature, and the exercise of judicial functions, which, after all, were not exercised by the House itself, but only by the law Members, a few lay Lords being present to constitute the House; but, as far as judicial proceedings were concerned, acting only the part of mutes. He could not help thinking that the dignity and influence of the House of Lords was rather impaired than otherwise by its appellate jurisdiction, so long as the administration of that jurisdiction was the subject of just complaint and was regarded as a grievance; but, on the other hand, there were persons who thought otherwise, and who would resist to the utmost any proposition to divest the House of Lords of its judicial functions. The grave difficulties in the way of withdrawing the judicial functions from the House of Lords must not be overlooked. To what tribunal could they be transferred? He thought it would be impossible to constitute a tribunal in the last resort other than the House of Lords without recasting and reconstructing the whole judicature of the country. There would be great difficulty in creating a Court which should decide in the last resort appeals brought up from all the Superior Courts of common law and the Courts of Equity. If it were proposed to form such a tribunal from the Judges at the present sitting in those Courts, then of course they must be withdrawn from the important duties which they had to discharge in their proper Courts. It had been argued that the Judicial Committee of the Privy Council should be made the last Court of Appeal. He was perfectly ready to admit that it was impossible to conceive a Court the functions of which were discharged more admirably; but, on the other hand, they must not overlook the difficulties which would stand in the way of transferring the whole appellate jurisdiction of the country to that Court. At the present moment the Judicial Committee consisted of Members of the Privy Council, who, with one or two exceptions, either held, or had formerly held, judicial offices. There was one splendid exception—a Member of that tribunal, a shining light of justice, who must add dignity, lustre, and efficiency to any Court in which he sat—he meant Mr. Pemberton Leigh—in respect of whom, if there was ever a

The Attorney General

matter of surprise and regret, it was that he had never filled a judicial office, worthy as he was to have filled the highest of all. The Committee, then, consisted generally of two classes—those who were actually Judges of Courts, and those who had been, but who had ceased to be, such Judges. With respect to those Members of the Judicial Committee who had ceased to hold judicial offices, it must be remembered that they had already earned an honourable retirement by the discharge of important judicial duties, and that the country had no right to call upon them now to undertake the whole appellate business of the country. It would be impossible to make their attendance compulsory, and if they attended at all it must be as volunteers. With regard to those Members of the Committee who were Judges of Courts, they were enabled to attend the Committee because the amount of its business was comparatively small and its sittings were occasional. Those Judges were the Lord Chief Justice, the Lords Justices, and other Members of the Superior Courts, the Judge of the Admiralty, and the Judge of the Prerogative Court. They were at present able to attend; but if the whole appellate business of the country was thrown upon the Judicial Committee, it would render it impossible for them to devote as much of their time as was due to their own Courts, and at the same time to serve as Members of the Privy Council. If the Judicial Committee, therefore, were to be made the sole tribunal of appeal in the last resort, it would be necessary to recast it. There was a still greater difficulty in the way, which, perhaps, he ought to have put first. The House of Lords could not be divested of this appellate jurisdiction without its own consent, and, so far as he could gather from all that had passed on the subject, the last thing which the House of Lords dreamt of was the surrender of their prerogative. Unless, therefore, the House of Lords could be persuaded to give up their appellate jurisdiction, all that was left was to endeavour to improve it, and to make it what it was not now—an efficient and satisfactory tribunal in the last resort. Attempts had already been made to do this without legislative interference. Hon. Members who had heard the petition of Lord Wensleydale read were quite aware what had passed with respect to the elevation to a life peerage of that eminent personage, of whom, as he was present, he

could not say all that he might otherwise have wished—[Lord Wensleydale occupied a seat in the Peers' box];—this much, however, he might state, namely, that no individual could have been selected more fitted for the performance of any duties that could be entrusted to him. The noble Lord was selected by Her Majesty to discharge judicial functions in the House of Lords; but that attempt, as they were all aware, had failed. It failed because, although many eminent persons, whose opinions were entitled to the greatest weight—and the authority of the noble Baron himself was second to none in such matters—considered that Her Majesty had done no more than exercise Her undoubted prerogative in conferring upon him a peerage for life, the House of Lords had been practically enabled to frustrate Her Majesty's writ, the constitution having placed it in its power to determine upon the validity of any writ of summons which might be presented at its bar. Under these circumstances Lord Wensleydale had not been able to take his place in the House of Lords. The question, then, arose, what was to be done? They might undoubtedly elevate a sufficient number of eminent judicial persons to the dignity of the peerage; but there would be considerable difficulty in carrying a plan like that into effect. There were now few lawyers who could afford, with any due regard to themselves or their families, to take upon themselves the dignity of a peerage. Things were not as they used to be, and fortunes were not now to be easily earned at the bar. The number of the Courts had of late been greatly increased. Formerly there were few Queen's Counsel; now there were a great number; and many changes had been made in the administration of justice, which were beneficial, no doubt, to suitors, to the public, and to the profession, but which rendered it very difficult to amass such fortunes as would justify a man imposing upon his family the onerous burden of a peerage. They were thus in this dilemma. The House of Lords would not admit life Peers, and they could not obtain a sufficient number of lawyers to accept hereditary peerages; they would not part with their appellate jurisdiction, and it was admitted on all hands—themselves included—that the exercise of that jurisdiction was in a most unsatisfactory condition. What, then, was to be done? Would they enter upon a conflict with the House of Lords? But how long would that con-

flict last, and what was to become in the meantime of the unfortunate suitors? Besides, even if the House of Lords were disposed to admit Peers created for life, they would still have to resort to legislation for the purpose of making the sittings of the appellate tribunal coextensive with the legal year. What, then, was the objection to the Bill? It would give efficiency to the House of Lords as a judicial body, and it would also enable Her Majesty to supply a defect which had long been regarded as a grievance, and even as a scandal. He did not believe there was any desire to have a Scotch Court of Appeal; but it was desired (and the wish seemed to him not unreasonable) that there should be a Scotch Judge introduced into the House of Lords, who might assist his learned brethren with his knowledge and experience of Scottish law and procedure, whenever appeals from the northern part of the island came before the House for final decision. Was not that a simple, and at the same time an efficient course to pursue? He was perfectly aware of the objections to the Bill. He could only put it to the House in this way—they had a most grievous evil to overcome, and this was the only practical means of doing it. But then it would be said that they were surrendering the Royal prerogative. It would be said that, whereas the Crown had, by virtue of its prerogative, in the opinion of many of the most eminent constitutional lawyers of the day, the right to create life Peers, the Government were abandoning that right, as indeed was suggested by the petition of Lord Wensleydale. In answer to that, he could only say that although they really asserted the Royal prerogative, and he was quite prepared to assert it, and as far in him lay to support it whenever the opportunity arose—still, practically, to stand up for that prerogative in the face of circumstances which rendered improvement imperatively necessary, would be to make that prerogative stand in the way of such an improvement. He could only present this Bill as a mode of getting out of the difficulty. [*Laughter.*] Hon. Gentlemen might laugh; but he did not for a single moment disguise that there were difficulties which beset this question. The evil they had to overcome was a vast and a fearful one; for what could be worse than an inefficient administration of justice, and a sense of wrong entertained by suitors? Therefore the House ought to apply itself with earnestness and with its best ability

and power to overcome that difficulty. He submitted that the proposition involved in this Bill did meet and overcome the difficulty. Better courses might possibly be suggested. The question was, could they be carried into practical operation? Unless it could be shown to the satisfaction of the House that some other scheme was practicable which would effect the object of establishing an appellate tribunal in the last resort, at once efficient and satisfactory to the suitors and the country—he hoped that the House would not lightly or inconsiderately reject a proposition which at all events held out a prospect of effecting that great improvement so loudly demanded.

Motion made and Question proposed, “That the Bill be now read a second time.”

MR. BOWYER rose, pursuant to notice, to move that the Bill be read a second time that day six months. Early in the present Session, when the question of the appellate jurisdiction of the House of Lords was first mooted, he had said that that House ought not to remain a stranger to the discussion of a matter so deeply affecting the rights and interests of their constituents. It then appeared to him that the opinions of the most eminent persons in that House ought to be elicited, and go forth to the country; so that public opinion might exercise a salutary influence on the decision of this great question. Entertaining as he did the profoundest respect for the House of Lords, he thought that there was danger of the question being considered with too much reference to local feelings and prepossessions, and rather with reference to the dignity and privileges of that House, than with reference to the necessity of providing a large and thoroughly satisfactory measure for the reform of that great branch of the administration of justice and the public service. It was true their Lordships had disclaimed any such influence, and professed themselves ready to give up the appellate jurisdiction altogether, if it could be shown that the satisfactory administration of justice required the renunciation of their privileges. He believed their Lordships were sincere, but it seemed the Attorney General did not think so; for he said that nothing remained but to accept the House of Lords as the court of supreme judicature, and to submit to the course now proposed as the only mode of solving the difficulty. The Bill now before the House showed that his (Mr. Bow-

The Attorney General

yer's) fears were not groundless. He considered the Bill altogether inadequate to satisfy the just expectations of the country and the exigencies of the public service. It was more like an expedient to stop a clamour, than a well-considered and well-digested measure for the reform and reconstruction of the tribunal of ultimate appeal. He need not enter into any arguments to prove the necessity of a reform of that tribunal; that had been already proved by the Attorney General, and it had been admitted in the Report of the Committee of the House of Lords, that their House was not adequate to the discharge of the judicial duties with which it was invested by the constitution. The statements in that Report, however, fell very far short of the real evils which attended the appellate jurisdiction of the House of Lords as it now stood. These evils, as stated in the Report, were—uncertainty as to the number of law Lords, besides the Chancellor, who heard appeals; that the House sat during only six months of each year; and that the administration of Scotch law had been at times unsatisfactory. He would take these evils in the order in which they stood in the Report. Not only was there uncertainty in the number of law Lords, besides the Chancellor, who sat to hear appeals, but there was a manifest want of strength of law Lords. It often happened that the Chancellor sat alone and heard appeals, either from himself or from the two Lords Justices in Chancery. If only one law Lord sat with him, and they differed in opinion, there was no judgment, and of such cases five occurred during the last Session of Parliament. In cases of appeal from the Courts of Error, opinions pronounced by nine common law Judges were perhaps set aside by men who had never held a brief in their lives in a common law Court. Even when the Judges were called in, the case was not much better, because they were not allowed to ask a single question of counsel, nor to take any part in the proceedings. That the appellate tribunal sat only during six months of the year was not only an inconvenience, but an absolute denial of justice and a constitutional absurdity. It ought to sit during the whole of the judicial year. The Lords' Committee reported that the administration of Scotch appeals had at times been unsatisfactory. Now, he (Mr. Bowyer) had no hesitation in saying, that the administration of Scotch law was not only “at times,” but always

unsatisfactory ; and, as the tribunal of appeal was at present constituted, it must necessarily be so. The appeal was from the fifteen Judges of Scotland—men of the greatest dignity and experience—to two or three English Judges who knew nothing of Scotch law. At the present time, it happened that the Lord Chief Justice was a Scotchman and acquainted with Scotch law, but he was detained elsewhere often by the pressure of other duties. Lord Brougham, too, was well acquainted with Scotch law, but could not now be expected to attend regularly to dispose of appeals. It was said that Lord Erskine, a Scotchman, had been Lord Chancellor ; but that was an accidental circumstance, which should not prevent the Legislature from dealing with this important subject, and Lord Erskine was more an orator than a lawyer. Having shown how inadequately the Report had dealt with the evils which were stated upon its face, he would proceed to consider the provisions of the Bill, and how far they were likely to cure those evils. The proposal was to create two Deputy Speakers to assist the Lord Chancellor in the hearing of appeals, giving to such Deputy Speakers salaries in order to secure their regular attendance. The Bill also contained a limitation of the power of creating life Peers to the extent of four. It was also provided that no writ to sit in the House of Lords should issue to a life Peer, except he were one of the Deputy Speakers, or held the office of Lord Chancellor. The chief feature of the Bill was, that which operated on the right of creating Peers for life. Without entering upon the constitutional question as to the prerogative of the Crown to create such Peers, he would only observe that the Bill before the House did not settle that point. It, however, did something which was very important—it sanctioned the creation of Peers for life without seats in the House of Lords—a perfectly new order of nobility. Upon that point some very grave constitutional considerations would arise. One question was, what would be the *status* of those Peers for life ? By the constitutional laws of the country every man not a Peer was a commoner, and every Peer was either entitled to sit in the House of Lords, or, as in the case of the Scotch and Irish Peers, was represented in that body by Peers whom they selected. The Bill would sanction the creation of Peers who would neither have seats in the House of Lords nor be represented there. What, then, would be

the rights and privileges of such persons ? Would they have a right to claim a trial by their Peers ? Would they be eligible to be elected to seats in the House of Commons ? But the creation of those titular peerages must lead to serious results. Admirals and generals who had greatly served their country, judges and statesmen of great distinction, might be created life Peers, and public opinion would not long permit the exclusion of such persons from the House of Lords. There would then occur a great change in the constitution of the House of Lords, for there would be two classes of Peers who would never amalgamate and would never be upon an equality. Such a subject was one which merited the most mature and deliberate consideration of Parliament, and should not be dealt with indirectly. The Bill, by its title, appeared to relate entirely to the administration of justice, but under cover of that Bill, a most vital change in the constitution of Parliament might be brought about. A further inspection of the Bill had led him to discover many anomalies and absurdities. He would first call their attention to the title of Deputy Speaker. A Speaker was a president or prolocutor, and a Deputy Speaker was a person to act in that capacity when the Speaker was absent. In the case provided for by the Bill, the Speaker and the Deputy Speakers were to sit together. Then, again, the Speaker and the Deputy Speakers were practically to sit without a House. The Bill, certainly, did not provide that the lay Lords should not take any part in appeals, but the understanding was, that they would abdicate their functions. If so the House would consist of a Speaker and two Deputy Speakers. Could anything be more absurd ? Another and most important anomaly was, that the House of Lords was to be empowered to sit during a prorogation of Parliament. That was a proposal which he thought should be regarded with great constitutional jealousy, for it was almost unprecedented in our history. It was true that in the reign of Edward III. an Act was passed which enabled certain Lords and Bishops to sit when Parliament was not sitting ; but the powers of that Committee were limited to reception of complaints of delays in the inferior Courts, and, moreover, the period was a revolutionary one and could form no precedent for our times. But, even if that were a precedent, the course proposed would be opposed to the fundamental principles of

the constitution. The appellate jurisdiction of the House of Lords was exercised by the Queen in Parliament, and Hale had shown that from the most ancient times writs of error were brought before the King in Parliament. At one time that (the Commons) House claimed a right to participate in the exercise of the appellate jurisdiction of the House of Lords, upon the ground that it formed one branch of the High Court of Parliament. By the principles of the constitution Parliament could not be divided by time, and all its three branches must be in existence at the same moment, and though one House might adjourn for a few days while the other continued to meet, both Houses must be prorogued at the same time. But by this Bill it was now proposed that the Queen and the House of Lords should sit in Parliament while the House of Commons was not sitting. Clause 5, enabling the House of Lords to dispose of appeals and writs of error during the prorogation, ended with the proviso that no other business than the determination of appeals "and matters connected therewith" should be transacted by the Upper House under such circumstances. What was the meaning of the words "matters connected therewith?" Encroachments on constitutional principles had before now taken place under cover of language far less vague and indefinite than this; and, although there might be no immediate danger of an invasion of the privileges of that House, it behoved them to guard with jealous care against the least loophole for a departure from the fundamental principles of the constitution. A further question was, who were to be the Judges of this Court of Appeal? The Lord Chancellor and four Peers for life. Practically, however, there would be the Lord Chancellor and only two life Peers, because there was nothing to compel the other life Peers, who would be unpaid, to attend. It was said that one of the Deputy Speakers was to be a Scotch Judge, and it was certainly impossible for the hearing of appeals from Scotland to be improved without some such arrangement. It was also stated that the Scotch Judge was to be unpaid; but it would doubtless be found that Scotch jurists were men far too shrewd and practical to come to London to discharge such functions without receiving proper remuneration. The Judge of the Admiralty Court and the Judge of the Prerogative Court were also to be Deputy Speakers; but the branches of the

Mr. Bowyer

law which the House of Lords had to administer being totally different from that dealt with in either of those Courts, where could be the sense of this provision? Let the House pause and consider how the proposed tribunal of last resort was likely to work. First, there would be the appeals from the Courts of Equity. These would go up from the Lord Chancellor to the same high judicial personage, assisted by two Deputy Speakers, one of whom would be a Scotch Judge wholly ignorant of English law, and the other a common law Judge, who, perhaps, had never held a brief in a Court of Equity. The same unsatisfactory tribunal would determine appeals from the two Lords Justices—Judges of the highest rank and the greatest experience. The result would be still more anomalous if the Deputy Speakers were the Judges of the Admiralty and the Prerogative Courts, because then the appeal would practically be from the Lords Justices to the Lord Chancellor alone, and he would be really one equity Judge sitting to determine on the decisions of two equity Judges of the highest rank. Next, there was the jurisdiction upon writs of error from England and Ireland. Those writs proceeded from the Court of Exchequer Chamber, consisting of ten Judges, the case before reaching that Court having been heard in one of the three Superior Courts. Yet they would go to the Lord Chancellor in most instances an equity Judge who had probably never practised at common law, assisted by a Scotch Judge knowing nothing of English law, and an English Judge who might be either an equity Judge or a common law Judge. The appeal would, therefore, practically lie from ten common law Judges to one common law Judge. A stronger *reductio ad absurdum* than this it was impossible to conceive. There still remained the appeals from Scotland, which would go up from fifteen Judges of the highest rank and experience sitting in the Court of Session, to the Lord Chancellor, who had no knowledge of Scotch law, assisted by one Scotch Judge and one English Judge of common law or of equity. Such would be the operation of this Bill, which surely could not deserve the sanction of the House. But the measure had another fault of a radical nature; it did not deal with the great constitutional defects of our judicial system. There were now two supreme Courts of Appeal in this country—the Judicial Committee of the Privy

Council and the House of Lords. These two Courts might take quite different views of the construction of the same statute and administer the law quite differently. Such a system could not be defended; and a Bill which professed to deal with the supreme appellate jurisdiction of the country, and which did not remedy the existing evil, must be regarded as inadequate and unsatisfactory. The defects of such a system were even greater in this country than they would be in most other countries in Europe. In most continental States the decisions of Judges were founded upon established codes or upon the civil law, or on both combined. But here the case was different. The greater part of the decisions of our Courts were founded on reported cases; and though it was true that the Courts decided according to law, yet the law was what the Courts had decided, which was a vicious circle. There were, moreover, a great many important questions still in doubt, and which Judges might decide just as they pleased. The amount of doubt connected with the law of this country was, he believed, unexampled in any other country, and if it were not for the high character of our Judges our legal system would be so arbitrary as to be absolutely intolerable. The law of this country was now in a state of transition; the boundaries between law and equity were not so decidedly marked as was formerly the case; and the tendency of the Judges was to unite the two as much as possible. Under such circumstances, he thought the establishment of a single supreme Court, permanent and independent, was absolutely necessary for the development of our jurisprudence. He would venture to say that without the institution of the Court of Cassation in France the *Code Napoléon* would have been almost inoperative; and even now complaints were made of the quantity of uncertain and undefined law which had grown up, like a sort of jungle, about that code. The question was then, what remedy ought to be applied? The Attorney General had defied any one to suggest a better measure than that now under consideration, and the hon. and learned Gentleman asked to whom, if the House of Lords were deprived of their appellate jurisdiction, that jurisdiction was to be transferred? He (Mr. Bowyer) would suggest the remedy which common sense pointed out—the establishment of a supreme Court, to consist of not less than five Judges, selected from the best men on

the bench or at the bar, and he would transfer to such Court the jurisdiction of the House of Lords and that of the Judicial Committee of the Privy Council. The members of the Court should be persons bred and trained to different branches of the law, and should have nothing but the appeal business to attend to. He proposed that that Court should sit during the whole of the judicial year, and that it should be composed of Judges acquainted with the various laws prevailing in this empire. Those Judges would not only be enabled to hear appeals without unnecessary delay, and consequently without causing undue expense to the suitors, but, from being in frequent communication and from constantly sitting together, they would doubtless, in course of time, form a series of decisions which would go far to fix and to develop the jurisprudence of this country. The only objection to the plan he suggested was its expense. The County Courts had already diminished very materially the business of the Superior Courts of common law, and as the County Courts received an accession of jurisdiction the effect on the business of the Superior Courts would doubtless be still more considerable. The Court of Exchequer and the Court of Common Pleas had not at present sufficient employment, and the expense of the supreme Court he proposed to establish might be partially met by reducing the number of Judges in those Courts. This Court would answer another purpose—it could be made a Court of Criminal Appeal. In this country, if a man had a judgment given against him for a small sum of money he had an appeal to other Courts; but if he was sentenced to be hanged he had no appeal except *ex gratia*, and that appeal, he believed, was never given, or by a point being reserved, which remedy depended on the discretion of the Judge. A writ of error was his only remedy, and that could only be for an error apparent on the record; but there might be no error on the face of the record, and yet the man be substantially innocent; or there might be error on the face of the record and the man be substantially guilty. In point of fact, the carrying or not carrying out of the sentence lay practically with the Home Secretary, and he could conceive nothing more unconstitutional than to repose such a power in that functionary. If, however, there was a Court of Appeal in criminal cases, with the power of granting a new

trial, it would remedy this great defect ; and such a Court would be found in the tribunal which he had taken the liberty to suggest. He trusted he had said enough to show that this Bill would be inadequate for the purpose for which it was intended, that it was replete with absurdities, and that its operation would scarcely be more satisfactory than the working of the jurisdiction which it was intended to amend. He objected to the Bill being accepted as an experiment, because what might be called bit-by-bit improvements always stood in the way of effectual reforms. The hon. and learned Gentleman then moved that the Bill be read a second time that day six months.

MR. ROBERT PHILLIMORE, in seconding the Amendment, observed, that the Attorney General had asked what could be worse than the present state of the Supreme Appellate Jurisdiction ; he (Mr. R. Phillimore) knew what would be worse—to render that state of things permanent, as they were invited to do by the measure now before them. He then objected to the passing of a measure so novel and so important at so late a period of the Session. It was in the second week of July that the House of Lords thought fit to invoke the aid of the House of Commons for the maintenance of what the House of Lords had hitherto considered their most dearly cherished prerogative, and which they had guarded with religious scrupulosity from the profane hands of the House of Commons. How had this strange event come to pass ? Who had assailed their privilege ? It was not the democracy, or the overweening ambition of the House of Commons, that had driven the House of Lords to take this extraordinary step. The enemy was not without, but within, the walls. The conduct of the House of Lords had forced the House of Commons to examine the whole question—one which most deeply concerned the welfare of the whole country—Ought the House of Lords to retain the supreme appellate jurisdiction over the property, and, in some measure, over the liberties of the subjects of Her Majesty ? The state of the appellate jurisdiction of the House of Lords had been painted in such colours by the Attorney General as to require no additional touches from those who spoke after him ; and yet it was proposed, by means of this ill-considered Bill, to render permanent, through this House, and the money of the people voted by this House, the state of things so described. The Bill had two ob-

Mr. Bowyer

jects of paramount importance. In the first place, it provided for the enactment of life peerages, and those of a peculiar character, being limited to the profession of the law, and founded on arguments which could not recommend themselves to those who maturely and deliberately considered the subject. The House of Commons ought not to conceal from itself that the effect of this measure, as respected life peerages, was a practical limitation of the peerage, and on that account alone the House ought to look upon the Bill with great jealousy. It would be remembered that, in 1719, an attempt was made by the House of Lords to limit creations of the peerage within a certain number, and he need not remind hon. Members how resolutely that measure was opposed by Sir R. Walpole, and thrown out by the House of Commons. It was true the present Bill was not precisely the same as the Bill of 1719, but its practical effect was the same—it was a Bill for the limitation of the peerage—a Bill in derogation of the rights of the Crown, and of the Commons. It was his deliberate opinion that it was the fact of the House of Lords being accessible not only to birth and to wealth, but to the industry and ability of every man and every profession in the land, which had been the cause of its surviving, almost alone, similar institutions in other countries. He repeated that with regard to that part of the Bill which had reference to the appellate jurisdiction, the Lords had obliged them to examine into the foundations of the whole question, for the Bill contained a practical confession that the House of Lords was unable to discharge the great trust which the constitution had confided to it. Before, however, they proceeded to build the new edifice upon the plan now recommended to them, they were bound to look a little at the materials within their reach, and to pause before they sanctioned the patchwork which had originated in a strange compromise of political parties ; it was their duty to look closely and examine severely every provision of the measure. Was it founded upon sound and wise principles, or was it a wretched temporary expedient ? Now, what did he find on the threshold, so to speak, of this measure ? Why, the Bill before them left untouched the great practical defect, that of having two tribunals equally supreme, and of co-ordinate jurisdiction ; there were the House of Lords and the Judicial Committee of the Privy Council, both exer-

cising over different subjects supreme jurisdiction in the last resort. The latter was indeed the creature of little more than twenty years' existence. But it could not be denied that of those two supreme judicatures, one had gradually won while the other had gradually lost the confidence and esteem of the public. One question was, how had this happened? Another question for consideration was, could these two adjudicatures be amalgamated and made to work together, or must the House of Commons be obliged to vote £10,000 a year for two Deputy Speakers, in order that the House of Lords might continue to exercise its appellate jurisdiction, their present administration of which the Attorney General had so severely censured this night? Hon. Members were aware that the jurisdiction of the House of Lords with respect to common law was of immemorial antiquity. The case was not so with regard to the other portions of the judicature. It was only in 1675, after a long struggle, and under peculiar circumstances, that the House of Lords obtained its jurisdiction in matters of equity. At the same time it endeavoured to procure jurisdiction in appeals from the Ecclesiastical, Testamentary, and Admiralty Courts, but was foiled in the attempt. Its jurisdiction was at first surrounded by checks and limitations. There was the highest authority for saying that up to 1700 the jurisdiction of the House of Lords was exercised with the concurrence of the Judges as assistants, and at an earlier period with the concurrence of the Privy Council. It was true that the Judges did not vote in the House of Peers; but Lord Hale maintained that they had a right to do so, and Lord Somers regarded the Judges as ancillary to the jurisdiction of the House, the two subsisting together. The present Bill proceeded upon a totally different principle. It said in effect, though not in express terms, that lay Peers should not vote upon judicial questions, and, while abandoning altogether the principle of the hereditary jurisdiction of the House of Lords, it set up a different, an inferior, a bad court, under the name of the House of Lords. As late as 1786 the lay Peers voted upon a judicial question of the greatest importance—namely, the case of the "Bishop of London against Fitch," respecting the validity or non-validity of general resignation bonds. On that occasion nineteen voted on one side and eighteen on the other, Lord Thurlow carrying the

question with the aid of the lay Peers against the authority of Lord Mansfield. Since that time the lay Peers, he believed, had not voted, and for 150 years the practice of the Judges attending as the regular assistants of the House of Lords had been discontinued, those learned persons being now called in by way of exception, and not as formerly, as a matter of general practice. An abortive attempt had been made to remedy that evil. Lawyers, according to the Attorney General, had ceased to make large fortunes; the House of Lords could no longer be recruited with hereditary Peers from the Bar. That was a point upon which different opinions might be entertained; but assuredly the example cited by the Attorney General did not bear out his statement. Was it meant to be said that Baron Wensleydale was so poor that he could not with propriety be made an hereditary Peer, and that the Government were driven by necessity to the experiment of a life peerage—the greatest experiment, he might add, tried upon the constitution for the last 300 years? It was well known that his noble Friend Baron Wensleydale was a rich man, that he had no son to inherit his dignity, and that there was no necessity in his case to resort to the experiment of a life peerage. Nor was the possibility of finding other competent and able lawyers sufficiently rich to endure the honours of the hereditary peerage so entirely impossible as the Attorney General seemed to suppose. But the attention of the House might now be usefully called to the practical working of the other supreme tribunal—namely, the Judicial Committee of the Privy Council—and to the consideration of the question how it had come to pass that this Court had engrossed to itself the confidence of the public. The Judicial Committee was in itself a creation of modern times; but the jurisdiction of the Privy Council, apart from the Judicial Committee, was of great antiquity. From the beginning of Henry V. to the end of James I., owing to the frequent intermission and non-holding of Parliament, and the consequently rare exercise of either civil or criminal jurisdiction by the Lords, it was found necessary to establish a judicature connected with the Privy Council, which was afterwards greatly strengthened, and which, notwithstanding the resumption of Parliaments, continued with great fidelity to exercise its functions up to the time of the constitution of the Judicial

Committee. It took cognisance of all questions from abroad, of all appeals from the Ecclesiastical, Admiralty, and Testamentary Courts, and, what was still more singular, of petitions in matters of lunacy from the Court of Chancery. When Lord Brougham was Chancellor, among his other eminent services to the country, he established the present Judicial Committee, founding it so wisely, making its constitution so flexible, composing it of such distinguished Judges that it gradually attracted the attention of the public, and engrossed to itself the confidence which the other co-ordinate tribunal had lost. In 1834 a Bill was introduced into the House of Lords that never got beyond the first reading, in which Lord Brougham proposed to amend the appellate jurisdiction of the House by giving the House the power of referring certain cases to the Judicial Committee, that tribunal being empowered to send for the Lord Chief Justices and the other Judges and to improve its machinery generally, and required to make a report to the House of Lords on the questions submitted to its judgment. There were two advantages connected with that scheme—first, the advantage of having one supreme tribunal for all cases; secondly, the advantage of concentrating in it all the judicial learning and talent of the country. Contrast such a scheme as this with the present miserable proposal of two Deputy Speakers, with £5,000 a year each—the salary of a puisne Judge—to sit with the Lord Chancellor to overrule the decisions of the Exchequer Chamber—that was to say, of all the common law Judges—and to continue all the abuses which the Attorney General had so justly and so indignantly described in his opening speech. Surely the House of Commons ought not to be forced, at the weary end of the Session, into the passing of a measure which continued every abuse of the present system, and created new places and fresh patronage to no inconsiderable amount. The only argument which the Attorney General urged for passing the measure now was, that the suitors before the House of Lords would suffer by delay. He had great compassion for these unfortunate people, but he denied that it became the House of Commons to pass a bad measure respecting so important a subject as the court of last resort for all the property and, indirectly, the rights and liberties of Her Majesty's subjects, because certain unfortunate suitors

Mr. Robert Phillimore

might suffer for a year or two longer. He was prepared to admit that it was very doubtful indeed what course ought to be adopted by Parliament. It was very desirable that a supreme Court of Appeal should exist, containing men of the highest talent and the most varied learning; and, as to the question of money, he was well convinced that the House would not grudge any sum in order to insure a court of last resort in which justice might be expeditiously done, and in a manner to command the confidence of the people of this country. But if it were doubtful what course that House ought to adopt with regard to the general question, it was by no means doubtful what course it ought to adopt with regard to the present Bill. There could be no doubt that the Bill did not remedy one-third of the evils at present complained of, and that it only skinned over the disease without curing it; and therefore, if the second reading were—which he trusted would not be the case—to pass, it would be most expedient to send the measure to a Select Committee, for the evidence before the Committee had by no means exhausted the subject. It was for the House of Commons to consider well the position in which it was now for the first time placed. The House of Peers had sent them down a Bill in order to supply a defect which they for the first time acknowledged to exist, and which Bill admitted that they could not without assistance discharge the trust confided to them by the constitution. How, then, would that House be able to answer to the country and to posterity, if, on this great occasion, when they had the opportunity of conferring a real benefit of inestimable value to the people—namely, the constitution of a good court of ultimate appeal over the most important interests of the subject—if, because there had been a compromise between certain parties in the House of Lords, or because some suitors might suffer from delay—they consented to permanently establish that which would be the greatest curse, a court of judicature in the last resort alienated from the sympathy, and which did not command the confidence of the country?

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

Question proposed, "That the word 'now' stand part of the Question."

MR. WHITESIDE: Sir, the two hon. and learned Gentlemen who spoke last have contented themselves with urging all manner of objections to the Bill, from the first word in the preamble to the last in the clauses. Surely, if the subject is full of difficulty, a gentleman so eminent for his legal ability as the hon. and learned Gentleman opposite (Mr. R. Phillimore) might have suggested some mode of removing those difficulties; and if it is the duty of the House of Commons to strike out some practical mode of redressing the grievances admitted, who more fit to do so than the hon. and learned Member for Dundalk? [Mr. BOWYER: I did so.] The hon. and learned Member amused, and perhaps instructed the House by a reference to the French laws, and the practice of the French courts; but with all respect to him, I should not wish to see either those laws or that practice introduced into this country. What the hon. and learned Gentleman did was to suggest a number of difficulties and objections to the Bill, but he sat down without having applied his abilities to solve in any way the difficulties which he raised. Now, I am not here to discuss the question of criminal law, or appeals from criminal law—I am not here to offer an opinion as to whether the Attorney General for Ireland ought to be empowered to grant a writ of error or not, but am occupied with an entirely different question—a question which is quite enough to engross the whole attention of this House, and one to which the hon. and learned Gentleman would have done well to have applied his mind. The hon. and learned Gentleman, among other things, spoke of the low scale of salaries to be given under this Bill; but that seemed to me no argument against the principle of the measure. If the hon. and learned Gentleman was seized with a fit of liberality, he might have proposed to increase those salaries in Committee; and perhaps he would have prevailed upon the Chancellor of the Exchequer to do so, if he could persuade him that by so doing he could procure a greater amount of ability in the persons to be appointed. But the salaries proposed in the House of Lords had been already reduced because it was thought they would not meet the views of some of the political economists in the House of Commons, so there was little chance of success in that direction. The hon. and learned Gentleman also spoke in high terms of the eligibility of the Judicial Com-

mittee of Privy Council as an appellate Court. I fully admit that that is an excellent Court, that it has discharged its duties faithfully, and is worthy of the confidence which the public place in it; while at the same time its members are cautious enough to suppress any difference of opinion which may arise between them, so that its decisions appear to have the stamp of unanimity, whilst that is not always the case. But I am surprised that a Gentleman possessing that profound knowledge of the constitution which the hon. and learned Gentleman possesses should have approved the suggestion that the Judicial Committee should be constituted the ultimate Court of Appeal in all cases. The hon. and learned Gentleman did not condescend to inform the House that the Judges of the Committee of Privy Council are entirely dependent upon the pleasure of the Sovereign; he did not tell us that every one of those Judges might be struck out of the list to-morrow. If such a Court as that is to be made an ultimate Court of Appeal, it would indeed be the most unconstitutional tribunal that could well be imagined. It does not follow that because a number of gentlemen, eminent indeed for their great abilities and extensive learning, are acquainted with Dutch law, with Spanish law, with Indian law—if there be any such—they should be the best tribunal to discuss and decide questions of criminal law—political cases—great cases of equity. The hon. and learned Gentleman assumed, but he did not prove, that the two Courts of the House of Lords and the Judicial Committee of Privy Council were co-ordinate tribunals. When was that fact discovered? It is true that they both take cognisance of cases in which personal property is the subject of dispute; but it is a strong assumption that, because they both decide a certain class of cases, their jurisdiction is co-ordinate. Nor is it the fact that there is any danger of the Committee of Privy Council conflicting in opinion with the House of Lords; for that very question was inquired into in the House of Lords, and I find it stated by a very eminent authority that when there was the least danger or the least chance of their coming into conflict in consequence of similar cases being before the House of Lords and the Judicial Committee of Privy Council, the latter Court stayed all proceedings until the House of Lords had pronounced an opinion on the case, and they then took

the law as affirmed by that tribunal. It is therefore entirely an assumption that the Committee owe a great deal to the circumstance of some of its members being Judges of other Courts, because I have shown that they decide in conformity with the opinion of the House of Lords. I now come to the practical question—and I give the House of Commons credit for not indulging in abstractions, but at all times attempting to solve difficulties in a practical manner—what are we to do in the present instance? Now, I must say, it seems to me that there has been a want of generosity in the way in which my hon. and learned Friends have spoken of the House of Lords. They have represented the jurisdiction of that House as having failed for many years. What is the fact? All the seventeen witnesses examined before the Lords' Committee, and among them were the foremost men in this country, declared that never was there a tribunal which commanded more perfectly the respect of the Bar and the confidence of the country. It has given laws to half the civilised world. American lawyers and writers have passed the highest eulogiums upon it; and it was asserted by all the witnesses that at the time when Lord Cottenham, Lord Brougham, Lord Campbell, and Lord Lyndhurst sat together under the Chancellorship of the first named noble and learned Lord, no tribunal was ever more distinguished for dispatch of business, for ability, or for learning. They discharged their duty to the country with a grasp of intellect, a power of language, and a display of legal acumen, admirable to behold. Is it just, then, that because one of those learned men can no longer attend, and another is obliged to absent himself in consequence of illness, you are to say, "this tribunal is no longer what it was, it is unworthy therefore to exist." Every gentleman who was examined before the Committee has stated that until the last two or three years that tribunal was one of unequalled excellence. An inconvenience has arisen—and it has arisen from the conduct of the Government in attempting to confer a peerage in an irregular form upon an individual whose learning and ability must have been found of great advantage in the other House of Parliament. But however that may be, we have no power of dealing with it here—in this House we must deal with the matter as we find it. But with what justice can the hon. and learned Gentleman

Mr. Whiteside

say that it is proposed to appoint two miserable persons to preside in a miserable court, and dispose of causes in a miserable manner, at a miserable rate of remuneration. If I held that opinion I certainly would vote, not for referring this measure to a Select Committee, but for relinquishing it altogether. But the fact is, that it is not proposed to do anything of the sort. The principal argument made use of by the hon. and learned Gentlemen who have opposed this measure is, that the cases will be decided by three persons. But what becomes of that argument when we find that, during the period of which all the witnesses spoke as being a period when the House of Lords was considered a tribunal of unexampled excellence, seldom more than three attended; and no one will deny that when Lord Campbell attended, before he was Chief Justice, Scotch appeals were admirably disposed of. Still but three persons attended. Well, an Act of Parliament passed to constitute the Judicial Committee of Privy Council—which tribunal, because it was new, was cried up against the House of Lords because it was old. What did that Act do? It made three Judges a quorum. If, then, the cases in the popular court of the Judicial Committee of Privy Council were decided by three Judges, and if the cases in the House of Lords, when that tribunal was one of acknowledged excellence, were decided by three Judges, where is the objection to the cases brought before the new court contemplated by this Bill being decided by three Judges? Some of the witnesses have pronounced an opinion in favour of five instead of three being the quorum. I have no objection to that. A great point in a Court of last appeal should be to have an unequal number, so that in case of difference of opinion there should be a casting vote; and if such a gentleman as Mr. Pemberton Leigh could be induced to enter the other House for that purpose, he would doubtless be a great addition to the learning and ability of that tribunal. But the number of Judges is a question of detail and not of principle, and this Bill, which is one of the strictest moderation, has only proposed two. To the principle of the Bill I see no objection. Indeed, I can speak from my own experience, with reference to cases which have come from Ireland, as to the feeling in that quarter in favour of the House of Lords being the Court of final appeal. Those

cases have been political, equitable, and criminal—they have involved the highest interests and questions of the deepest importance; but the fruit of my experience is, that nothing should induce me to give up the right of appeal to that House. It would ill become me to speak of O'Connell's case, because in that I was counsel; but I appeal to the great case of the Presbyterian Marriages, which affected the interests or the feelings of thousands of persons, and I ask whether in that and similar cases the greatest confidence was not felt by the public in the House of Lords as a court of appellate jurisdiction? The House of Lords has always had a right to call in the assistance of the Judges of the land, and the Bill does not deprive them of that right. The assumption of the hon. and learned Member is, that the noble Lord at the head of the Government, instead of searching for men of the first ability and greatest eminence to place in the high offices created by this Bill, will look out for men of inferior ability, and be influenced by other considerations. I do not believe in that assumption. I would also mention that the Court of the Lords Justices really consists of three, because, although only two Justices are appointed, in case of difference of opinion the Lord Chancellor is called in and assists them. Now on this point I will just refer to the evidence given by the hon. and learned Member for Wallingford (Mr. Malins) before the Lords' Committee. He says:—

"An appeal to the Lord Chancellor sitting alone is not satisfactory; an appeal to the Lords Justices is not quite satisfactory. It is not because I think the decision is not correct, but because I study the way in which the public look at the matter. I think there ought to be four or five Judges; five would be a convenient number, but four would do."

And in another place my hon. and learned Friend stated his opinion that three would be satisfactory. The hon. and learned Gentleman the Member for Dundalk (Mr. Bowyer) expressed an opinion that there ought to be, at least, one Scotch Judge among the number. I do not object to that; but I confess I was surprised at the candour of the Scotch witnesses, who, instead of asserting their right to have a Scotchman in the House of Lords as one of the Judges of Appeals, expressed an opinion that the decisions on Scotch questions were very much better without them; and gentlemen of such eminence as Mr. Hope and Mr. Bellenden Ker expressed an opinion in favour of leaving the

appellate jurisdiction with the House of Lords. The Writers to the Signet state—

"That this society fully recognises the great benefits which have resulted to the law of Scotland from the exercise of the appellate jurisdiction of the House of Lords; and would deprecate any alteration by which its judicial functions would be vested in any other body. That, in the determination of appeals from the Scotch Courts, it is of great importance to maintain the benefit derived from the application of the English judicial mind, and also to obtain the assistance of an eminent lawyer, thoroughly acquainted with the whole range of Scotch law and practice."

They therefore suggested the propriety of having a Scotch Judge in the Court of Appeal, and I should be sorry to say anything in favour of the exclusion of learned individuals of the Scotch nation from this Court of Appeal; but, at all events, the practical grievance resulting from the absence of a Scotch Judge is very little, according to the testimony of the witnesses. What do those who object to the present measure rely on? The hon. and learned Member for Plymouth, and almost all the able and learned men examined before the Committee, expressed their anxiety that the appellate jurisdiction should be retained by the House of Lords. I also am anxious to retain it in the House of Lords for the very best possible reason, because it possesses it, and that is a good Conservative argument. The House of Lords has had an appellate jurisdiction for a long period of time, and if there are any defects it is our duty to improve but not to destroy it. If, at any time, in consequence of infirmity or length of years, three Judges are not able to attend in the Judicial Committee of the Privy Council, it is our duty to replace them, and such is the principle upon which this Bill is framed. The hon. and learned Member says that his objection to the House of Lords being a permanent tribunal of appeal in the last resort is, because it depends entirely on the volition of individual Lords whether they will attend or not. That is to be cured by the appointment of two learned persons as assistants to the Lord Chancellor, to attend constantly to hear and determine cases. But, it is alleged, that in public opinion, such a tribunal will not carry the weight and authority of the House of Lords. I believe it will, for I believe that the Members composing the House of Peers will always have such an influence over the Judges constituting that Court as to impart to their decisions the dignity of the whole House, while they

will always be able to check any approach to irregularity. It is of the greatest consequence that the appellate jurisdiction of the House should be vested in, and discharged by, the whole body, which it will be in the persons of these Judges. Surely the hon. and learned Gentleman does not expect to get more perfect, more brilliant, more luminous judgments than had been delivered in that House during the last half century, when Lord Redesdale and Lord Eldon sat there? Is the House of opinion it will get better men? I think not. Nor will they be miserable Judges because they are moderately remunerated for devoting their talents to the country. So far from objecting to the Bill, I think that the hon. and learned Gentleman should vote for its second reading, and show us in Committee how it can be improved. It is said that life peerages would be created. That is true; but you hear the opinion of eminent authorities, that if limited in number the adoption of that principle may be beneficial; there is no likelihood that the House of Lords will be deluged with life peerages. You must give way to the exigencies of the time. You have reformed the Court of Chancery—you have created the Judicial Committee of Privy Council—you have established the Court of the Lords Justices; and I think there is no ground either for surprise or alarm in this proposition. By adopting it you will get eminent men, who will not only increase the judicial strength of the House of Lords, but who will suggest good laws, and more, correct those laws sent up to them by this House. Considering that almost all the amendments of the law which we have had of late years originated in the House of Lords, I am the more confirmed in my opinion that I am right in giving support to this measure.

SIR JAMES GRAHAM: Sir, I always listen with the greatest respect to gentlemen of the long robe, but, as the House has been addressed by four learned Gentlemen in succession, I hope, conscious as I am of my own incompetency, that they will allow one not learned in the law to address them upon a question of the greatest gravity, and, I must add, of the greatest constitutional importance, which has been discussed in this House for a long time. The hon. and learned Gentleman who has just sat down has passed a glowing eulogium upon the House of Lords, which, I presume, he meant to apply to it in its judicial capacity as a Court of ultimate ap-

Mr. Whiteside

peal. He has referred to great names, to Eldon and to Lyndhurst, not going further back, however, as he might have done, to times when there were giants in the law. I shall not differ from him with respect to earlier times; but I ask him, if, indeed, the House of Lords be so strong in its legal powers and in its efficiency to deal with great questions in the last resort which are brought before it, whence arises this Bill sent down to us from the other House? Is the House of Lords, I would ask, of the same opinion as the hon. and learned Gentleman that, as at present constituted, it is a tribunal which is satisfactory or such as to inspire the public with confidence? The Attorney General, who proposed the second reading of this Bill, if I mistake not, told us that the defects of that tribunal were glaring, and that it was on account of those defects that the Government proposed this Bill. I am bound to add that there were several observations made by the Attorney General which filled me with amazement and fear. The hon. and learned Gentleman told us that the defects of this tribunal were glaring; that a better course might possibly be adopted than that proposed by this Bill; and he added, as a reason for passing this Bill, that the House of Lords would not surrender its appellate jurisdiction. I said some of the hon. and learned Gentleman's observations filled me with fear and amazement. Have we arrived at that point that we, the Commons of England, if we shall be satisfied with the judgment of the House of Lords itself as to the inefficient mode in which it now exercises its judicial functions, are to be told, when called upon to supply a remedy, that, though a co-ordinate branch of the Legislature, we are not to exercise our own right of decision with respect to the remedy, and that we are to be coerced by the assertion of Her Majesty's Attorney General that the House of Lords will not surrender its appellate jurisdiction, and consent that a new tribunal shall be erected which, it was admitted, is not one that will fulfil all the requirements of such a Court? Have we arrived at such a pitch of degradation? What is the meaning of that assertion of the Attorney General that this is not the best measure which can be proposed? A noble Friend of mine (the late Lord Melbourne) said he could well understand not proposing any change in cases of doubt, and he could well understand also changes being proposed greater than he might think safe, and greater

than he might be ready to assent to ; but he was always filled with apprehension when it was said that "something" must be done—an indefinite change must be made, not supported by reason, but pressed on as being cogent from necessity, without any distinct idea of what the change should be. Yet I heard from the Attorney General this evening that the defects in the appellate tribunal are glaring ; that the best remedy was not the remedy proposed by this Bill ; that the House of Lords would not surrender its appellate jurisdiction—and yet that something must be done. The hon. and learned Gentleman opposite says that it is our duty if we reject this Bill, to propose a better one. It may be possible for us to do so ; but before we do so, as the House of Lords has inquired, is it very unreasonable that the House of Commons should ask for a little time to inquire likewise ? I turn now, however, Sir, from that which has been said by those who have preceded me to the view which I myself am disposed to take upon the subject. The Bill presents itself to us under a double aspect. It seeks to dispose of a controversy as to peerages for life, and it seeks also to remedy the deficiencies in the appellate jurisdiction of the House of Lords. With regard to the first, a compromise was a matter of necessity. Her Majesty's Government found themselves unexpectedly involved in a difficulty with respect to the creation of peers for life, from which they sought to retreat, and their opponents in the House of Lords, having the command of a majority, found themselves also in a great difficulty, inasmuch as, having given a vote against peerages for life, they were involved in and embarrassed by a struggle with the Crown on a question of prerogative. A compromise, under such circumstances, between the two contending parties was natural and inevitable. The compromise in this case has been admitted by the noble Lord at the head of the Government. It is the nature of this compromise to release the Government from their difficulty as to the peerages for life, and to release the Opposition from their difficulty in respect of their struggle with the Crown. But is there nothing extraordinary in this state of affairs ? The unanimity with which this Bill has been sent down to us, in my opinion, ought to excite the jealousy of the House of Commons. In these matters the *graves principum amicitiae* are more formidable than the array of hostile parties,

and I think the House of Commons ought to view with jealousy a compromise based on the mutual convenience of contending parties. There is nothing new in this. My hon. and learned Friend who seconded the Amendment referred to the last occasion on which the question of peerages was discussed in this House. It was in the year 1719. Then, also, a Bill came down to this House which had received very general support in the House of Lords. It was moved by the Government, and it was supported by their opponents. It was met in the House of Commons by Sir Robert Walpole, who found himself on this question united with his oldest opponents, and opposed to his warmest partisans, with signal success, both in this House and out of it. He published a memorable pamphlet upon that occasion, in which there is a passage which I will read to the House, as it is an admirable illustration of the present state of affairs with respect to this Bill. He says—

"Amid all the numerous objections to this worthy scheme, I am free to own that there is one thing in it which deserves commendation, for it has produced a never-before-known unanimity among our great men. It has yoked the lion with the lamb."—[I don't know whether we may not say the same of this Bill after the speeches of the hon. and learned Member for Enniskillen and the hon. and learned Attorney General—which is the lion and which is the lamb it may be difficult to say]—"the Whigs with the Tories, men in power with those they have turned out of it." [The hon. Member for Enniskillen sees some analogy already, I imagine.] "Ministers of State are become patriots, and join with their professed enemies in lessening that prerogative they have so often occasion for."

I am almost ashamed to quote a passage from another pamphlet, because it is not a pamphlet of Walpole, but of Sir Richard Steele, who took part in that great struggle, and who wrote a pamphlet called *The Plebeian*. He mentions a suspicion that certain great influences were afloat to carry the Bill, which had come down as a compromise from the other House, and he describes some nameless Member under the designation of Esau, whom he denounces as—

"The greatest traitor to civil society that ever yet appeared, who shall contend for such a Bill in the Commons with the assurance in his pocket of being a Peer as soon as the Bill passes."

I know not whether that passage is at all applicable to the present case, but there are suspicions which will, of course, be afloat on all such occasions, and it is

certainly suspicious to see such unnatural unanimity. I only put it as an instance of there being nothing new under the sun. Even if it were admitted that it was not a compromise, every line of the Bill which we are now discussing is marked by feebleness, obscurity, and that impotent indecision which is inherent in middle measures. The principle upon which the Bill is framed is clear. If the House will permit me to read it, I have a passage here from the speech of Lord Derby, which in the plainest and most explicit manner gives you a clue to the labyrinth, and shows you the precise basis on which the Bill rests. The noble Lord said—

“Can we frame the Bill in such a manner as not to call upon the Ministry to pronounce a condemnation of the policy they have upheld; and, on the other hand, not commit the body of the Peers to a proceeding inconsistent with the stand made by them in defence of the hereditary character of the peerage?”

That is a most frank and open avowal of the principle on which this measure is framed, and it leaves no doubt, not only as to the existence, but as to the object of this compromise, and as to the mode in which it is worked out in this Bill. Either the prerogative of the Crown is compromised by the limitation which this Bill contains, and by the appeal to legislative sanction for the issuing of a writ of summons to a Peer for life to sit in the House of Lords; or, if there be no such limitation, the precedent of peerages not of inheritance is established by the Bill now before the House. What is most remarkable is that such is the ambiguity and obscurity of this Bill, such is the care with which it has been framed with words in collocation bearing a double meaning, that we have reason to know that on the third reading it was viewed in an opposite sense by each of the two sets of authors from whom it emanated. The Lord Chancellor and the Lord President of the Council declared that they would never have given their consent to the Bill if it had limited the prerogative with respect to the creation of Peers for life; while the Lord Chief Justice of England and Lord St. Leonards declared that they would not have consented to it if it had contained a recognition of the prerogative of the Crown to create such peerages. Of two things one—either the majority of the House of Lords is deceived with respect to this measure, or Her Majesty's servants who have advised it have unintentionally betrayed the prero-

Sir James Graham

gative, of which they are the guardians. It is a dilemma from which there is no escape. For us there is an escape, and that is by the rejection of the Bill, and by giving time for the framing of a measure on this important subject which shall not be ambiguous, but of which the meaning shall, on the contrary, be clear and patent. I have said that the measure is studiously obscure. Let any hon. Member turn to the fourth clause, which I have myself repeatedly read. The uninitiated would certainly say that it conceded to the Crown the absolute power of creating four peerages for life. It commences by giving the Crown power to grant peerages for life to two Deputy Speakers, and by providing that a writ of summons shall, with the consent of Parliament, be issued to them; but the words at the end of the clause go much further. They provide that there shall not be more than four persons holding peerages for life at the same time. The plain meaning of that would be that it would be quite open to the Crown to make two Deputy Speakers and to fill up two other peerages, the holders of which should be chosen, not from the legal profession, but from any other class from which the Sovereign should be advised to make the selection. But I believe that the right construction is, that it is in the first instance strictly limited to two Deputy Speakers, and the provision for the existence of four life Peers is made that these Deputy Speakers may retire and fresh ones may be appointed with the same rank, the gross number of Peers for life at no time exceeding four. But, then, what is the position of Lord Wensleydale? Unless he shall be selected by the Crown to fill one of the Deputy Speakerships, he being and remaining a Peer for life, his position will be most ambiguous and most anomalous. The petition which he has presented to the House this evening cannot fail to receive our attentive consideration. He understands the precise bearing of this clause, for the ambiguity of which he is not responsible, and he says that it will seriously damage his case in regard to that legal claim which he seeks to urge to its greatest possible extent. I think that, out of deference to that noble Lord, who has every claim upon our consideration, we ought not to decide without referring the question to a Committee, or else summarily rejecting a Bill which prejudices his claim. It is a strange inconsistency that the champions of the peerage by inheritance only are now, as it were, the authors of

this proposal of peerages for life. If the prerogative be limited, it is contrary to the sense of duty of the Queen's advisers, as is avowed by Her Majesty's Government, that henceforth no Peer for life, not a Deputy Speaker, can be created without the consent of Parliament. If it be unlimited, then it is open to abuse for party purposes, and dangerous to the independence of the House of Lords. This Bill has one remarkable characteristic. In this assembly there are, I dare say, very conflicting opinions with respect to the general policy of the creation of peerages for life; now, this Bill is so framed that there ought to be a general concurrence of those who favour and those who are opposed to the creation of such peerages to reject it, because it leaves in uncertainty that great branch of the prerogative. I, for one, entertain the gravest doubts with respect to the policy of the creation of peerages for life. I look at the colonial senates, and see there the nominees of the Crown holding their appointments in the Upper Chamber, which are *quasi* peerages, for life. Nothing could have been more injurious to the colonies generally than this system of nominees. Speaking broadly, I should say that an hereditary peerage—an independent peerage—and I would use these terms as almost synonymous—an hereditary and independent peerage is the characteristic of the mixed kingly form of government. And there is no alternative. If you have not an independent hereditary peerage, you must come to elective members of the Second Chamber, which is the mark and designation of the republican form of government. Now, what is the evil alleged? The alleged evil which this Bill seeks to counteract is, that there is in the House of Lords too much of a law origin; and that the sons of great lawyers inheriting peerages are without adequate means of sustaining their dignity. The cure suggested by this Bill is the most extraordinary one that I ever saw. Instead of running the risk of a comparative want of means on the part of the sons of law Peers created with inheritance, it seeks to introduce the Peers themselves into the House for life, before they shall in their noble profession have earned means sufficient to sustain the independence and the dignity of their station. Poverty is for the first time avowedly to be one of the ingredients in the qualifications for life peerages. What will be the effect? Poverty is to be one of the

ingredients, and it will be a brand of dependence and a mark of inferiority. It will engender in the mind of a Peer for life, who feels himself, as it were, degraded, the constant hope of working out his own independence and obtaining from the Minister of the day the more honourable station of an hereditary Peer. It will have another effect. What is the title of Peers? The very title of Peers, "*Pares*," implies equality. But here will be a degraded class, unequal in its position, looked down upon by the hereditary Peers on that very ground, on account of their poverty, as well as of their inequality. What has the law done to deserve this indignity? I cannot conceive any position to be worse than one in which favour is to follow fawning, and where they are to hang upon the skirts of a Minister to obtain a more independent station, and to become really equal, *pares*, with that body into which they have been so unworthily introduced. If this Bill should pass, no Chancellor will ever obtain an hereditary peerage—he will never reach the position which was filled by Clarendon, by Hardwicke, by Camden, by Eldon, and by others whose names it is needless to particularise, but whose descendants are among the most revered and most respected members of the House of Peers, because they owe their origin to men who in their day rose to pre-eminent station by pre-eminent talent. The only chance that a Lord Chancellor will have of obtaining an hereditary peerage will be, not that he is pre-eminent in his profession, but that he is rich and childless. Lord Somers has been mentioned. Lord Somers was a poor man when he had become a most eminent one, and such was his noble spirit that he was content to sit as Chancellor in the House of Lords virtually deciding causes by his learning and his influence, yet really without a vote, because in his early days he had not acquired that independent fortune which he thought necessary to entitle him to take an hereditary peerage. Did he ever dream of a peerage for life? He never thought of such a thing. He never dreamed of it. Together with his pre-eminence he earned an independent fortune; he was raised to the peerage, and his heir still adorns that noble assembly. The Attorney General said—

"This is an efficient remedy to cure the evil; it is not the best measure that we could hope to carry if the House of Lords would yield to reason; but that House will not part with its jurisdiction;

you must take this, and, upon the whole, it is a very good thing."

By this Bill you limit the number of peerages for life to four. From the nature of the choice the Deputy Speakers must be aged men who have long occupied a prominent station. Age and infirmity will tell upon them, and it is possible that from age and infirmity they may cease to be able to perform their judicial functions; yet they will remain peers for life, though no longer Deputy Speakers, and, unless you legislate again, you will be reduced to the precise position in which you stand at this moment. Your remedy fails; your measure is useless. I feel satisfied that you cannot stop here—that you will find it indispensably necessary, if this precedent is established, to go on and extend the creation of peerages for life not only to the law, but to the army, the navy, and to politicians. I am sorry to say that poverty is not confined to the law; on the contrary, I believe the law to be a much more lucrative profession than that of arms. Your admirals, your generals, usually do not make £10,000, £15,000, or £20,000 a year; and I must be permitted to say I very much doubt whether the leaders of the bar at this moment are not in receipt of a larger income than their predecessors enjoyed at any period of the history of the profession. Their talent is pre-eminently great. I need only look on both sides of this House to be justified in saying that the Bar was never more distinguished. I doubt whether at any period were the receipts of the Bar greater than they are now. If, then, they are prudent and able, like their great exemplars in an earlier history of our free constitution, in a profession which is the safeguard of that free constitution—if employing their talents fully they have that self-command, that thrift combined with industry which leads to the accumulation of ample means, then, I say, they have no need of this paltry measure, limiting the enjoyment of the great reward of their exertions and their great fame to the short and narrow limits of their own lives. But if this Bill be necessary for the profession of the law, then, *a fortiori*, it is applicable to other professions, and you are establishing a precedent that will not stop where you profess to limit it. Then, I say, you touch the mainspring, the noble mainspring of human action. All our highest aspirations in everything that is really worthy of genius are connected with a longing for im-

Sir James Graham

mortality, and a desire to immortalise and perpetuate our name. Let me say in passing—

"— ipsos quamvis angusti terminus ævi

Excipiat

At genus immortale manet, multosque per annos
Stat fortuna domus, et avi numerantur avorum."

That is the motive which actuates the noblest spirits, and animates their hopes and their exertions. Then take the case of politicians: I say a life peerage in the House of Lords may be regarded as a shadow from the heat, as a refuge from the storm; but it is a miserable thing for a man who has occupied a prominent position in the House of Commons, as history has taught us by examples. Look at the very period to which I have referred, to the case of Mr. Walpole and Mr. Pulteney. At that time Mr. Pulteney had an opportunity, having overthrown Sir Robert Walpole, to form an Administration, but he shrunk from the responsibility and would not accept the highest office, but asked for an earldom. Walpole, whom he had humbled, had great influence with the Crown—the King was unwilling to grant the earldom; but Walpole out of office had sufficient influence to obtain the grant for his opponent from his reluctant Sovereign, and, having succeeded, Horace Walpole records that when he went home he used this expression—suing the action to the words—"I have turned the key of the closet upon that Gentleman." Lord Chesterfield, commenting upon the transaction, says of Pulteney, that "he sank into the insignificance of an earldom." And Walpole himself having, after twenty years of triumphant power, been raised to the peerage by the title of Earl of Orford, we are told that when he entered the House of Peers he went up to the Earl of Bath, his old rival, and taking him by the hand said, "now here we are, the two most insignificant fellows in all England." Yet those were hereditary peerages. Consider, then, what will be the effects of this retreat into the House of Lords for decrepit politicians, by means of peerages for life. How miserable and degraded will be their position! And I tell the House that if it passes this Bill, many years will not elapse before the precedent will extend from lawyers to admirals, to generals, to politicians; and the most serious consequences of all will be, that we shall find our veteran statesmen standing in the marketplace, like the labourers in the parable, crying at the eleventh hour of the day—

"No man will hire us!" Political degeneration and turpitude will be extreme. I therefore entreat the House to pause before it passes this Bill. There is one reflection which I wish to make in passing: hereditary peerages, from the abstinence of the Crown in respect to new creations, are rapidly diminishing, and if you come to granting peerages for life the independence of the House of Lords will be incurably swamped. I have here an account of the state of the peerage at the beginning of Sir Robert Peel's Administration in 1841. Since then, I find that twenty-nine peerages have become extinct, and up to January of the present year only fourteen new creations had been made. Since January, I believe, there have been two new peerages created, making sixteen in all; but still leaving a diminution of thirteen since 1841. The independence of the body, unless you tamper in this way with it, is sustained both by the course of nature and the constitutional forbearance of the Ministers of the Crown from unduly augmenting the number of hereditary Peers; but if you break ground in that direction, I am satisfied that for a very paltry object—paltry in respect to the object you have in view—you will inflict a great blow, and run the greatest risk of seriously impairing the value of a co-ordinate branch of the Legislature. Turning, however, from this point to that which is of the greatest importance—the court of appeal and the jurisdiction of the House of Lords—I find that there is a fiction and a reality. The fiction is as to the jurisdiction being in the House of Lords. The reality is, that that jurisdiction is in the Lord Chancellor, chosen with the fluctuations of party, partly on account of his abilities, but still more on account of his activity as a partisan, and in three or four other ex-Chancellors, who have been chosen in the same way in their own day. What is the description given of that House by the Queen's Attorney General? He said—I do not know that he used the expression "dummies," but he said they were ciphers, or mutes and ciphers. Now, the fiction is that these mutes and ciphers exercise the jurisdiction, while, in fact, I believe the tribunal, which at last to its honour has avowed its incompetency, consists at the present time of the Lord Chancellor sitting alone. I admit there have been times when, as I have said, "there were giants," the Lord Chancellor sitting alone was the best possible tribunal; but we have passed

from the days of giants to those of pigmies. I cannot think that one Judge, unaided, yet reversing the decisions of the highest tribunals throughout the United Kingdom, can be regarded as adequate to the performance of his high duties. There were such things at the common law bar as sham pleas, but those fictions have now been discarded as worse than useless. Shall a delusion be maintained in the highest tribunal itself, when all such worthless fictions are abolished in the lowest Courts? What were the objections admitted in the Lords' Report? The principal objections were two—first, that the tribunal was uncertain, sometimes the Lord Chancellor sitting alone, sometimes sitting with one, two, or three ex-Chancellors; but the client never knew until the morning his case was opened what was the tribunal he was to appear before and who was to constitute it; and, secondly, that the Scotch appeals were not satisfactorily heard. Now, what are the remedies which are proposed to meet these evils? Two Deputy Speakers are to be appointed, but still the objection remains to the uncertainty of the tribunal. This Bill contains no ouster of the jurisdiction of the ex-Chancellors. There are three or four of them floating about in the House of Lords, sometimes present, sometimes absent; but, if they should all think fit to attend, I believe there are three ex-Chancellors and the Lord Chief Justice who can do so. I remember, too, the time when my noble Friend Lord Devon was held to be a law Lord, and I believe the great case of "Small and Atwood" was decided during his attendance. Then, there is an Emeritus Master in Chancery in that House, and he, too, may be regarded as a law Lord. There is no ouster against them, and they may safely claim the privilege of voting as law Lords, and the vote of each will be equal with that of one of the two Deputy Speakers, whom you are now invited to appoint at salaries of £5,000 or £6,000 a year each. A sham, whatever care may be taken to conceal it, is always transparent at last; and the fiction which confides the appellate jurisdiction to the House is so flagrant that it escapes through all disguise, even in this very measure. The Bill admits it to be indispensable that this tribunal, reconstituted as proposed, should sit during prorogations. What is the meaning of such a provision? It means that the House of Lords will delegate certain powers from themselves as an integral

part of the Legislature to three Peers, or to three Peers and the law Lords when Parliament is not sitting. And it appears that four Ministers of the Crown voted in the Committee that these powers should be delegated during dissolutions as well as during prorogations—a proposition which was only defeated by the independent voices of Members of the House of Lords not connected with the Government. Again, it turns out that pay has become necessary to ensure the discharge of these judicial duties. Now, while the House of Lords maintained their dignity by exercising their judicial powers without receiving salaries, I could understand that the continuance of this jurisdiction might strengthen the position of the learned body to whom they intend to entrust it; but when you tell me that they are to be hired journeymen, paid for their work by the House of Commons, I cannot say that there is either dignity or honour in such a position, and the strength of the position of the House itself will not be the same as it was when they performed their old hereditary office in the old hereditary way, to the satisfaction of the people, without fear, without favour, and without pay. In the Judicial Committee of the Privy Council—which you all agree in commending—you have unpaid Judges, performing with dignity the duties confided to them, to the entire satisfaction both of the profession and of the country. I will now make a few comments upon the second clause. Observe that by the limitation in that clause the Crown is confined in its selection of these new Judges within a very narrow space. The qualification is having held certain judicial offices for a specified time. In 1840, when the Judicial Committee of the Privy Council was appointed, and when, if ever a measure of this kind ought to have been proposed, the right moment for its introduction had arrived, this limitation would have excluded Lord Campbell, Lord St. Leonards, Dr. Lushington, and Lord Rutherford; even at the present moment it will exclude one, I believe, of the Vice Chancellors, Sir W. P. Wood; Mr. Pemberton Leigh, on whom such deserved encomiums have been bestowed; the present law officers of the Crown, and the law officers of Lord Derby's Government—men equal in character, in learning, in independence, and in ability to any gentlemen who ever adorned the legal profession. And this is the Bill which we are asked to

Sir James Graham

pass without inquiry, because the House of Lords will accept nothing else; because they will take no other means of satisfying the expectations of the people; because, if it is not passed, they will allow things to remain as they are! Again, by the common consent of all the witnesses of authority examined by the Committee, three is an inadequate number of Judges for the new tribunal; yet three is the number named in this Bill! I will not trouble you with the evidence upon this point; it is sufficient to observe that the Solicitor-General, Sir Fitzroy Kelly, Mr. Roundell Palmer, the Dean of the Faculty, Mr. Napier, and the Lord Justice General of Scotland concur in the opinion that five is the smallest number of which the Court of Appeal ought to be composed. Then, if you wish to make these Judges in the last resort, small in number but pre-eminent in power, adequate to the discharge of their duties, you ought to hold out some inducement in the shape of salary larger than that of the puisne Judges; yet the salary it is proposed to give them is £5,000, exactly that of a puisne Judge. I am now about to touch upon a point which, considering the number of gentlemen of the legal profession who are present, will, I am afraid, be unpleasant to the House; but my love of truth compels me not to pass it over. This Bill, if it passes, will, in my humble judgment, debauch both the Bench and the Bar. Puisne Judges are now very rarely indeed promoted to be the chiefs of their Courts. There is an old saying, that the Common Pleas is the pillow on which the Attorney-General reposes; it is his natural promotion, and no doubt, generally speaking, it is better that the chief of the Common Law Courts should be selected from the Bar than from the Bench. What will be the effect of this Bill? Why, the Crown will have the power of looking along the row of puisne Judges, and holding out to them the appointment of Deputy Speaker, a peerage for life, probably the expectation of an hereditary peerage in reversion; the tenure upon which they hold office, *quamdiu bene se gesserint*, will be very well understood, and if a Deputy Speaker is complaisant, a good voter in the House of Lords, always with the majority, and in favour of the Minister of the day, he may hope to obtain an hereditary peerage. The Government will then give the vacant place to some elderly gentleman of the bench, who will not occupy it very long,

but will make room for an eligible successor, also taken from the bench. I repeat that the effect of placing such patronage in the hands of the Executive Government will be to debauch the bench of Judges. What will be the effect upon the Bar? It will not be so direct, but it will not be less palpable. The vacant places on the bench will be filled by leaders, the business of those leaders will either be engrossed by a few persons, or divided among the Bar, whose interest it will therefore be that the leaders should be promoted. The measure will thus, I think, operate unduly and unfairly, both on the dignity and honour of the Bench and on the independence of the Bar. I have made this observation, I hope, without giving offence. No man living honours more than I do the independence, the learning, the character of the Bar; they have heretofore been, as they are at present, the champions of liberty, and I regard with pride and gratification their honourable and fair promotion in the career of just competition; but when attempts are made to throw temptations in their way inconsistent with their honour, I think these attempts ought to be resisted by the House. Now, let us see what is the business which will be transacted by the new tribunal to be constituted at this great cost. We have before us a return moved for by the hon. and learned Member for Devonport (Sir Erskine Perry), from which it appears that the causes taken before the Court of ultimate appeal in the course of a year do not average more than seventy, and do not occupy more than four months of the year in their consideration and decision. Now, I think it would be wise, before you constitute a new tribunal as a Court of ultimate resort, to consider whether additional business ought not to be transferred to it. A grave question arises with regard to the Lords Justices, a still graver question with regard to the Committee of Privy Council. I doubt whether the arrangement of a concurrent appeal or a double appeal, if your tribunal in the last resort is really satisfactory, ought to be maintained. These are grave considerations, not to be decided in the middle of July, and by a declaration of the House of Lords that they will take this measure or nothing. If there is the least spirit in the House of Commons, they will reject the proposition and take their own time and their opportunity to consider the important questions it involves. In the next place, has the appellate business

for a considerable time been satisfactorily transacted by the House of Lords as at present constituted? Upon this point we have the authority of Lord Brougham, of Lord Cottenham, of Lord St. Leonards, of Lord Campbell, and of Lord Langdale, who at different periods have all recorded their strong and deliberate opinions against the jurisdiction of the House as now exercised. Most of these learned Lords, too, have proposed remedies for the evils they have pointed out, any one of which is, in my humble judgment, preferable to the measure we are now discussing. Observe, this was at first a usurped jurisdiction on the part of the House of Lords, and it was so characterised by Lord Hale and by Lord Nottingham. And let me also say, in passing, that it was not by the House of Lords that it was originally exercised, but by the King in the Great Council of State, His Majesty, by writ, summoning his Privy Councillors to attend him, and then, under their advice, deciding the causes in the presence of the Lords, but not through the Lords. I should be wandering far beyond my proper sphere if in any detail I sketched what should be done; but of this I feel certain, that, of two things, one must be done—either the House of Lords, without legislation, and *proprio vigore*, must endeavour to amend their jurisdiction; or, failing that, let them frankly, openly, nobly, and with a single eye to the public good, entirely abandon a duty which they cannot satisfactorily discharge. This is no suggestion of mine; it has been made by some of the high authorities whom I have enumerated. It is quite competent for the other House, without our intervention, to amend their jurisdiction. I believe they have the power of summoning to their aid, not only the common law Judges, but the equity Judges and the members of the Judicial Committee of Privy Council. Why, at the commencement of each session, should not all the causes entered for hearing be classified by the Lord Chancellor, the common law appeals be sent to a committee of common law Judges and certain Privy Councillors, the equity causes to the equity Judges and also certain Privy Councillors, the Scotch appeals distributed to certain Judges and the Lord Justice General and the Lord Justice Clerk, both of whom are now Privy Councillors? and even two more of the Scotch Judges might with great propriety be made Privy Councillors. The delegation must be outside the House of Lords

—in the Painted Chamber, for instance—the Lord Chancellor always presiding, and a certain number of Judges hearing the causes and having voices. Lord St. Leonards says that nothing can be more derogatory to the science of the law than debates upon the law itself, in public, between the Judges. What takes place in the Painted Chamber in regard to the report need not be known except from the report itself and the conclusion come to; it should be reported to the House from the wool-sack as the judgment of the Court of Appeal, and when adopted by the House it would stand the final judgment of the House of Peers. Some such measure as I have thus faintly shadowed out is within the competence of the House of Lords without new legislation. If that is not sufficient, I know of no remedy within themselves likely to lead to a more satisfactory solution, and nothing therefore will remain for them but, as I have said, to surrender their jurisdiction. Of this, however, I am sure, this matter cannot continue to go on as it does now—the public, the profession will not allow it. The House of Lords is an assembly of politicians, and your Lord Chancellor and ex-Chancellors come together every evening to debate, and that, too, sometimes with great bitterness; your keen law Lords are often as keen politicians; and it would be really curious to see how they meet each other, after an angry debate in the House of Lords, to agree the following morning on their legal judgments. We know how they agree—they have come together to debate their judicial decisions in the presence of the public. Even Lord St. Leonards—who in his most able work on real property gives it as his opinion that to the science of the law nothing is so injurious as open debates among Judges on the law—was the first to break through his own rule in a learned argument which he himself conducted in the House of Lords with singular ability and remarkable astuteness. I cannot consistently with my duty forbear to mention certain prominent cases, although some of them have already been alluded to, wherein the action of political influences was quite apparent. There was the celebrated O'Connell case, to which the hon. and learned Member for Enniskillen referred, having himself been counsel in it for Mr. O'Connell. The opinion of nine of the common law Judges was taken on that case. Seven were in favour of a conviction, two were against it. The question came to be decided by the law Lords

Sir James Graham

alone. I do not see the hon. and learned Member for Suffolk (Sir F. Kelly) in his place, but he was also counsel for Mr. O'Connell. I will not trouble the House by reading the evidence he gave before the Committee of the House of Lords. He gave it as his deliberate and confident opinion that, if that case had been the case of any ordinary individual—an operative mechanic, for example—judgment would have been pronounced the other way. Vice-Chancellor Stuart, in his evidence, also stated the opinion of my late lamented and sincere Friend, Sir William Follett, who once expressed his conviction that the House of Lords had impaired their jurisdiction to a degree which could never be restored, by the law Lords failing on that occasion to put aside every political bias which might have existed in their minds, and to do what he believed was their duty—namely, to sustain the decision of the majority of the Judges. Another remarkable case was that of the Irish mixed marriages. It was argued in Ireland, and ten out of twelve of the Judges pronounced their opinion. It was brought to the House of Lords; the English Judges were called in, and they unanimously concurred with their ten Irish brethren. What happened in that case? By a mere chance—a pure accident—that judgment, so sustained by the concurrence of the English and Irish Judges, was upheld indeed by the decision of the House of Lords; but how upheld? There was an equality of voices on each side, among the law Lords, and no judgment was delivered at all. So that literally that decision was a matter of chance. A more recent example was the decision in the Bridgewater will case, which was heard before the Lord Chancellor. Eleven of the Judges were called in to hear the appeal, nine of whom agreed with the Lord Chancellor; yet the judgment which that noble and learned Lord, the head of the law, delivered in his own court, although it was supported by a most able argument and backed by such an array of judicial authorities as I have named, was ultimately reversed by the voice of four ex-Chancellors. The Scotch cases are more remarkable still. And this Bill does not profess to provide any remedy whatever for them. An hon. Friend of mine has presumed that a Scotch Judge will be elevated—if elevation it can be called—to a life peerage, and made one of the Deputy Speakers. But, if you are reduced to that necessity,

what will English and Irish suitors say to this Scotch-law deputy, trained in a law other than that which he will have to administer, deciding, with a voice equal to one-third of the highest Court of Appeal, on the law of England touching property, and touching property, too, in its most sensitive parts, and in the last resort? This Bill leaves it open for the Crown to appoint a Scotch lawyer; but with that single and, I must say, doubtful exception, it wholly passes by the question as to Scotch appeals. What, then, is the mode in which justice is administered in regard to Scotch cases? It is well known that Lord Erskine, in his place in the House of Lords, and from the wool-sack, when he had been elevated to the great seal, frankly and openly avowed before the assembled Peers, and in the face of the country, that he knew about as much of the law of Scotland as he did of the law of Mexico. I do not believe a more honest, upright man, ever filled the seat of justice than the late Lord Truro. He possessed that quality—more precious even than learning in a Judge—the strongest possible love of justice. He was not ashamed to do what few men had the moral courage to do—namely, to own his imperfect knowledge of certain branches of the Law, when justice was at stake. He sat alone, by a sad compulsion, for a whole Session to hear Scotch appeals; and it is recorded of him, that when he first sat to hear a question relating to Scotch entails he wished to take home an elementary treatise to inform his mind on the branch of the law on which he was called upon to decide, having practised all his life at common law. [An hon. MEMBER: It was an Irish, not a Scotch case.] Even if that were so, the argument to be drawn from it was much the same. Lord Truro was sitting in equity, and all his life he had been a common lawyer. Lord Truro for an entire Session heard all the Scotch appeals, and such was his sense of justice that he never pronounced a single judgment. What is the bearing of this on the administration of justice in this class of cases? The Lord Justice General—the highest authority—says that the appeals mainly rest on speculation as to the chances of the tribunal at the particular time. The Lord Advocate told the House of Lords' Committee that he had heard stated at the bar of that House, as being the law of Scotland, that which would never have been uttered by the youngest

counsel at the Scottish Bar; and the Dean of Faculty says, that when he is consulted by Scotch clients on the propriety of an appeal to the House of Lords, he does not look in the least to the merits of the case, but speculates on the light in which it will be viewed by English lawyers. Rabelais relates that there was a certain Chancellor who for twenty years pronounced judgments to the entire satisfaction of the people, which were regarded as perfectly consistent with justice and redundant with learning—that he kept his own counsel, however, about the peculiarity of his procedure; but the mode in which he had administered justice at length transpired, when it was found that, having always retired to his closet before delivering his decisions, he there fixed arbitrarily upon two numbers to correspond with each view of the case, and then, taking a dice-box into his hand, he would cast the die and give his judgment according to the numbers that he turned up. This is the mode in which appeals have been virtually conducted in the House of Lords, and which we are this day asked to sanction. They certainly do not decide appeals by lot, but a tribunal in which chance or party feeling thus prevails, in these days is disgraceful to the country in which we live. I am ashamed of the extent to which I have occupied the time of the House. Hitherto the inquiry has been instituted by the House of Lords alone, but I am one of those who think that a reformatory process can seldom be safely intrusted to those who have to reform themselves. The case is one in which the intervention of a second body will be most useful, and I do think that inquiry into the appellate jurisdiction in the last resort will most profitably employ our attention. What evil can result from the rejection of this Bill? The Session is drawing to a close, and this jurisdiction will not be exercised until we meet again. There is, therefore, ample time for further consideration. I have not only resisted the measure, but I have presumed, not on my own authority, but on the authority of those by whom I think I have been well advised, to sketch a mode by which the House of Lords themselves may, without the intervention of this House, improve their appellate jurisdiction. But again I say, if legislation is necessary let us begin *de novo*, and carefully investigate how an efficient and satisfactory tribunal can be constituted. Either for rejection or delay I cannot hesitate to

was the traditional respect in which the jurisdiction of the House of Lords was held so utterly baseless that no advantage whatever was to be derived in the administration of justice from the high dignity with which it was associated by being united to one great branch of the Legislature? Did the independence of the judicial system gain nothing by having its root and fountain-head in the House of Lords, where unquestionably it was unassailable by corruption or by the influence of the Crown, and where it was brought into immediate and close contact with the legislative power, so that the same Judges who administered justice in the House of Lords, might also suggest acts of the Legislature to correct any defects or errors in the law? He confessed he could not divest himself of the notion that the administration of justice did gain something in dignity, independence, and stability from its association with the House of Lords; and he believed, also, that the opinion which had so long prevailed was not unfounded, which supposed that the House of Lords gained something of dignity, honour, independence, and stability from its association with the administration of justice. And, without pressing that consideration for one moment to a point which would make it interfere with the due administration of justice, he was unable to prevail on himself so far to disregard it as to avoid asking this question. If it be possible to establish a satisfactory court of final appeal in the House of Lords, consistently with constitutional principle and the interests of the country, would it not be as well—would it not be better—to do so, rather than to annihilate all the *prestige* of centuries and all the traditional respect which the country had been accustomed to feel for the jurisdiction so exercised, for the sake of attempting some new experiment the success of which no one could foretell? He thought it better to try improvement in the House of Lords, rather than venture on a course of mere experiment without any necessity which he was able to perceive. His right hon. Friend (Sir J. Graham) had addressed the House in a very powerful speech, full of topics calculated to affect its decision. He was not quite sure that all those topics were equally germane to the essential merits of the question. His right hon. Friend had urged objections to details, many of which were well founded; but he thought it was not necessary to refer to them upon the question of giving this

Mr. Roundell Palmer

Bill a second reading. His right hon. Friend objected, in the first place, to the manner in which the question of life peerages was dealt with by this Bill; and, in the second place, he objected to the measure as giving a legislative recognition to the fiction involved in the present jurisdiction of the House of Lords. Some hon. Gentlemen had objected that the prerogative of the Crown, with regard to the creation of life peerages, would be invaded by the Bill, while others maintained that the measure would open the door to the creation and extension of such peerages. The right hon. Baronet had, for the purposes of his argument, used both these objections, but he seemed to throw his own opinion into the scale in favour of the second. He (Mr. R. Palmer) had not been persuaded by anything which had occurred in the House of Lords or elsewhere to entertain a doubt that the Crown did possess the prerogative of creating life peerages. Indeed, until the recent discussion of the question in the House of Lords, he was not aware that any doubt on the subject had been expressed by any high legal authority, but numerous writers of authority, both ancient and modern, had affirmed that the Crown possessed such a power; while as for the distinction of a peer with, and a peer without, a right to take his seat and vote in the House of Lords (no personal disability being in question), such an anomaly was never heard of before the case of the creation of Lord Wensleydale. One noble Lord, whose voice had not been least loud in the debate against the creation of Lord Wensleydale, had, when exercising a function which he (Mr. Palmer) supposed he ought to call judicial, in the case of the Devon Peccage, affirmed with the most undoubting and decided conviction that the Crown had the power of creating life peerages, and he went on to say that there was great reason for believing that the Crown had the power to create a peer during another man's life. That noble Lord had unquestionably changed his opinion; but down to the time when the Crown was advised to exercise the prerogative in the case of Lord Wensleydale, he (Mr. R. Palmer) was not aware that either the noble Lord to whom he referred, or any other legal authority of eminence, had ever entertained any serious doubt upon the subject. There was great doubt whether the passage which had been referred to, as expressing the opinion of Mr. Hargrave, did embody the views of

that gentleman; but, at all events, much higher authorities had affirmed without hesitation the existence of the prerogative. He thought it was impossible for any one who had studied the history of the prerogative of the Crown, with regard to peerages, to arrive at the conclusion that the Crown did not possess the power of creating life peerages. The late Marquess of Londonderry sat in the House of Lords as Earl Vane, and what was the nature of his title? It was an earldom, limited to him for his life, with remainder not to his eldest son, not to heirs male of his body, but to heirs male of his second marriage; and if the present dowager Marchioness had died during Lord Londonderry's life, without leaving male issue, Lord Londonderry would either have been excluded from the House of Lords upon the principle which had lately been laid down, or he would have been an instance of a person holding a peerage for life which could not by possibility devolve upon any of his descendants. That was not the only example of the same kind. Whatever might have been the policy or prudence of the advice given to the Crown in the case of the Wensleydale Peerage, he thought no one could doubt that the Lord Chancellor, in giving his advice, had been influenced solely by a desire to apply a remedy to the very evil which this Bill was intended to meet. He (Mr. R. Palmer) might be asked whether he did not object to this measure on the ground that the prerogative of the Crown was invaded by the limitation which the Bill by implication, though perhaps not expressly, placed upon the exercise of that prerogative. He did not think that, because a prerogative existed, it should not be in the power of Parliament to limit that prerogative, or that it might not be wise on the part of the Crown to consent to such limitation, when the measure might be deemed politic, or for the public advantage. The difference of opinion which had arisen upon this subject, and the absence of any known legal remedy which the Crown could apply to assert its prerogative against the decision of the House of Lords, seemed to him to reduce the practical question to this—whether, if there were any substantial objects, beneficial to the public, for which the prerogative ought, within certain limits, to be supported and maintained, and if both Houses of Parliament could concur in maintaining that prerogative within such limits, there was any valid reason why the Crown

should be advised to object to the limitation of its prerogative. The very novelty of the question, and the doubts which existed on the subject, were reasons why the limitation of the prerogative might advantageously and expediently be declared by Parliament. No one who maintained the existence of this prerogative on the part of the Crown had, so far as he was aware, thought that it would be for the public advantage to exercise it in such a manner as to invade, to subvert, and to undermine the hereditary character of the peerage. The Crown had been advised to exercise the prerogative, with the view of meeting a practical difficulty, and it was only on that account that any importance was attached to the question. When the union between Great Britain and Ireland took place, the prerogative of the Crown with regard to the creation of Irish peers was limited by Act of Parliament, and that was also the case when Scotland was united with this country. The law with respect to the right of Bishops to sit in the House of Lords had, of late years, been altered, and Bishops who, formerly, when they were appointed by the Crown, could, by virtue of their appointment and consecration, take their seats in that assembly, were, by an Act of Parliament, deprived of the privilege. There was, therefore, nothing unconstitutional in dealing with a question of this nature by act of Parliament. If the House considered that the practical value of the prerogative was to enable the Crown to supply the House of Lords with an adequate amount of judicial power, while it was not desirable that the prerogative should be exercised in such a manner as to destroy or undermine the principle of an hereditary peerage, he thought it would be wise and salutary to uphold the prerogative within some such limits as those contemplated by this Bill, and to put an end to all further dispute by restraining the prerogative for the future within those regulated limits. Such a course seemed to him to meet the objection of the right hon. Baronet (Sir James Graham)—that the Bill would tend to undermine the hereditary character of the peerage, and to introduce the novel practice of creating life peerages. The right hon. Baronet said, that when lawyers were created life peers an onward movement would take place, and that naval and military officers and politicians would be elevated to a similar dignity. He (Mr. R.

Palmer) thought that the right hon. Baronet was not justified in assuming that this Bill which limited, regulated, and restricted the prerogative, preventing its assertion except in the case of persons called to the House of Lords to fill certain judicial offices, and which they were told would confer an unenviable honour upon men, at whom the finger of scorn would consequently be pointed, would induce persons who might attain distinction in the army, in the navy, or as statesmen, to desire the position of peers for life. He (Mr. R. Palmer) believed there was no cause for alarm on that ground. If there was any danger that life peerages would be extensively created this Bill was a most salutary measure, for it restricted the exercise of the prerogative. It was his conviction that no persons would accept life peerages except upon the ground that such peerages were more desirable for themselves than hereditary peerages. He thought no man—whether a lawyer or a person in any other position—was justified in accepting an hereditary peerage merely because it was the object of his ambition to “build up an immortal name,” if with that name he could not transmit to his children and descendants adequate means for supporting its dignity and honour. Unless those means existed the descendants of such a man would not look back with gratitude or respect to the founder of their family, but they would wish that his ambition had been more moderate, and that he had been content with honours which he might himself have supported with becoming splendour, but which they were unable properly to sustain. A court of appeal must be composed substantially of lawyers, and if that court was to be in the House of Lords, as he thought it should be, then means must be taken to remove every impediment to the supply of lawyers of adequate attainments and numbers. But did experience warrant them in believing that they could always command the adequate number of lawyers in a condition to accept hereditary peerages? He agreed with his right hon. Friend that it was probably not true that the legitimate emoluments of the profession were less in the present day than in former times. The habits and tastes of society now were perhaps more expensive than formerly, and therefore there were not the same chances of accumulation; but one reason why enormous fortunes were made in former times and were not likely to be made now was, that in other days

they were not solely made by the legitimate emoluments of the profession. Those were the days of large and extraordinary emoluments, when Lord Chancellors and other high judicial officers enjoyed very great salaries, and when immense fortunes were made in a short time in very irregular ways. All these irregular ways were cut off now, and all that was done must be by the regular road of honest labour. This was an improvement of our times, but one consequence of the improvement was that we did not find many professional men building up fortunes adequate enough to sustain the expenses and dignity of the hereditary peerage. If there were cases of persons with sufficient means there was no reason against giving them hereditary peerages; but who could count up the number of legal peerages that had been created during the last sixty or seventy years, and say that there were adequate fortunes in connection with them? Who could fail to see that it would have been a better thing for many of those families if their ancestors had not been raised to the hereditary peerage, and that it was no advantage to the hereditary peerage to have such members among them? In very recent times only one colossal fortune had been made by a lawyer—he meant that of Lord Eldon. The result was that wise and moderate men, who acted best for themselves and their posterity, though they might be possessed of means ample enough to support their personal dignity in their lifetime, and who might be the ornaments of their profession, would always be found, in such a state of things, reluctant (if they were likely to leave successors behind them) to accept the hereditary peerage. If we were to have the choice of the best men in the profession, some means must be found of obviating this difficulty; and that was the reason why a remedy was lately sought. But he took the liberty of saying that the remedy, even if Lord Wensleydale's creation had been accepted by the House of Lords, must have been imperfect, because we wanted not only the presence in that House of a greater number of persons conversant with the law, but also persons who would be bound to give a constant, regular, formal, official attendance in the House of Lords for the performance of the required duties. That could not be done unless the principle of salary was adopted, and that was included in the principle of the measure before the House. The Bill he regarded as

Mr. Roundell Palmer

defective in its details. For instance, the number of the fixed judicial body appeared to him too small, and their salaries inadequate. He thought if they were going to do the thing at all, it should be done well. They should not have a petty measure that would make it necessary to come to Parliament again. He did not hesitate to say that if the Bill passed with only two Judges, whose salaries were not to exceed those of puisne Judges, it would run a great risk of proving a miserable failure. He supported the second reading on this ground—that the Bill went on the principle of forming in the House of Lords, and as an integral part of that House, and therefore no fiction (or not more a fiction than the existing jurisdiction), a tribunal which should be found sufficient to perform all the duties of a final Court of Appeal. That was the principle in which he concurred, but he objected to some of the details. Those who framed it thought, and he did not, that two Judges would be enough. They thought, and he did not, that salaries of £5,000 would be enough; but these were points to be considered in Committee either in the present or in another Session, and therefore this was not the time to enter minutely upon those points. He took the main principle of the Bill to be that they should retain, and improve, and provide for the efficiency of, the Court of Appeal in the House of Lords; and on that ground alone he gave it his support.

MR. COLLIER said, until there was a responsible Minister, and Government came forward with a definite policy of law reform, by which they would be willing to stand or fall, it would be in vain to expect any measures of law reform that would be perfectly satisfactory. The opposers of the Bill had shown themselves remarkably barren of suggestions of improvement. None of the opponents appeared to be agreed as to what ought to be done. They admitted that matters were intolerable, but they totally disagreed as to the fitting remedy. The proposition of the hon. and learned Member for Dundalk (Mr. Bowyer) was quite untenable, as he proposed to take Common Pleas and Exchequer Judges, and with their aid to form a Court of Appeal. The hon. and learned Member for Tavistock (Mr. R. Phillimore), was too sagacious to adopt such a scheme, and he contented himself with saying that the House of Lords ought to reform itself; but he did not state how. That was the

whole case of the opposition. Here, however, in the Bill was a practical remedy for an admitted grievance. At present they had an uncertain tribunal, and one that could not be depended upon. This Bill constituted three Judges, whose attendance should be regular, and whose attendance might be depended upon by suitors—an improvement of the greatest practical importance. The Bill proposed that the Jurisdiction of the House of Lords should be co-extensive in duration with the sittings of the courts from which the appeals were made—that was also another most important improvement. He quite admitted that the Bill was capable of still further improvement, and if the Solicitor General's opinion had been attended to, the Bill would have been made more perfect. The Solicitor General's suggestions before the Committee ought to be embodied in the Bill, and if no one else made the proposition, he should propose that those suggestions be embodied in it in Committee. It was not too late to embody the suggestions of the Solicitor General with reference to a permanent Committee, and to the power of summoning all the Judges of law and equity, in case of need. The Solicitor General had grappled with all the difficulties, and had shown it was possible to deal with business transacted not only by the House of Lords but by the Privy Council. If these suggestions were adopted the Bill would work well, and be found a practical remedy for existing grievances. He should support the second reading of the Bill, and propose Amendments in Committee.

MR. J. G. PHILLIMORE said, he considered the Bill to be both dangerous and unconstitutional, and containing a compromise which rather eluded than met admitted evils. If there was one argument stronger than another against the Bill it was the necessity of separating the judicial and legislative functions; but this union had been put forward by one hon. Member as the strongest argument in favour of this Bill. This power of exercising an appellate jurisdiction was a mere usurpation on the part of the House of Lords. In the time of Charles I. the House of Lords made a desperate attempt to acquire the judicial function in the case of "Skinner against the East India Company," but in that attempt they were defeated. In the time of Charles II. the power of appeal to the House of Lords was resisted, and by no man more earnestly than by Lord

Hale, and it was not finally established till his death. The way in which the power of appeal became vested in the House of Lords was this:—After the death of Lord Hale the Crown issued a writ to certain members of the House of Lords—members of the Privy Council—authorising them to decide upon certain cases. The jealousy of the House of Commons was thereby aroused, and, rather than that the King should have the power of appointing a Court of Appeal, they acquiesced in what was undoubtedly a usurpation on the part of the House of Lords. The same objection had been made in the reign of Queen Anne. Sir W. Temple said that he had not heard any part of the British constitution so much complained of as the judicial functions exercised by the House of Lords. The same power was complained of by Sir Edward Sugden (the present Lord St. Leonards) in 1841; and now it was even complained of by the House of Lords themselves, who had reported that they were inadequate to the discharge of their functions. In his opinion, the only effectual remedy would be to remove the appellate jurisdiction from the House of Lords, and to constitute a supreme court of appellate jurisdiction, composed of the most consummate lawyers, which would command the respect and confidence of the country. To show that there was no peculiar sanctity in the claim of the House of Lords, he would refer to the opinion of Mr. Hallam, which directly negatived the claim of the House of Peers. They had a measure before them adequate for its purpose, and if the House of Lords neglected its functions, it was no reason why the House of Commons should neglect theirs. The House of Commons, though willing to give any sum of money for an efficient tribunal, objected to spend money for an inefficient object. If you took away the functions from lay Lords which they did not really possess, they would only be taking away that which they could not properly exercise. It was the duty of the House to constitute a tribunal that should be efficient, not for a few years, but for all time. With regard to the power of the Crown to create life peerages, he did not consider that to be the proper time for discussing the question. He would, however, observe that if James II., in his time, had asserted the power of creating life peerages, in all probability the House of Lords would have been swamped and his crown would have

been saved; but notwithstanding the arbitrary power generally exercised by that monarch, he never assumed the prerogative of creating life peerages. He thought it most impolitic and unwise to empower the same men to exercise both the judicial and political functions—for it must be remembered that these life Peers were also to vote in the legislative chamber—and he said it was a dangerous temptation to hold out to Judges, thus to mix up the judicial and legislative functions.

LORD JOHN RUSSELL: I confess I could have wished to hear from the Solicitor General some other reasons in support of this Bill than those which I have as yet heard. Indeed, it appears to me that two very great authorities who have spoken in favour of the Bill have, by their speeches, rather tended to increase the doubts of those who are unfavourable to the measure than to confirm those who are anxious to hear reasons in favour of it. My learned Friend the Attorney General almost made an apology for introducing the Bill. He said it was not what it ought to be, and that what he desired was a Bill which would erect a tribunal of appeal quite independent of the House of Lords. The hon. and learned Gentleman pointed out how much better such a tribunal would be than that devised by the present Bill, and he did not state to the House any reason against such a measure, except that the House of Lords were determined to go against reason, to overbear all the motives of justice and expediency, and to stand by their appellate jurisdiction, however mischievously it might work to the country. I must confess that would give one a very bad notion of the House of Lords, and I cannot but think it would give the country a bad notion of the House of Commons if, acknowledging the measure to be bad—knowing that it has been recommended to us as a bad measure—we were, nevertheless, to accept and adopt it in its present shape. Then we were told by the hon. and learned Member for Plymouth (Mr. Collier)—and I was glad to hear his remarks, because they coincided with the opinion which I had myself formed—that if the proposed tribunal were to be created, not only would £5,000 a year be an inadequate salary for the Judges to be appointed, but more than two Deputy Speakers should sit in the House of Lords; and he added, that unless the salary was larger, and unless two more members were added to the tribunal,

Mr. J. G. Phillimore

the Bill before us would be a miserable failure. But we must take the Bill as we find it, and it does not propose to give either larger salaries or to appoint a larger staff than that which the hon. and learned Gentleman deprecates as insufficient. The hon. and learned Gentleman, however, wishes to amend the Bill in Committee; but I know not that the Government would be prepared to adopt the alterations which he proposes. I am told, however, that the Bill is the result of a bargain—that the two sides of the House of Lords have agreed to the Bill, and that the House of Commons has nothing to do but to assent to it. Now, I must own that that argument does not at all incline me to acquiesce humbly in the Bill. It gives me some suspicion of the measure to be told that it is a compromise between the opposite parties. In the first place, in spite of the learned authorities which have been quoted before the Committee, I have considerable doubt whether the proposed remedy is absolutely required. I am told that the House of Lords is unfit to exercise the functions of a Court of Appeal, because very frequently the Lord Chancellor sits alone; because at all times the attendance of the law Lords is uncertain; because there may be present two ex-Chancellors, or only one, or none at all; and, because the members of the Court do not appear in judicial costume. Why, Sir, the greater part of these allegations refers to a state of things which has always existed, even when the country was most satisfied with the constitution of the House of Lords as an appellate tribunal. We have heard the names of Lords Hardwicke, Mansfield, and Eldon, more recently of Lord Cottenham, as well as of Lords Lyndhurst and Brougham, who are still alive; and I think no one can say that there has not been, from Lord Hardwicke downwards, almost a perpetual succession of periods in which men of great intellect, of very powerful understanding, and with vast treasures of acquired legal knowledge, have presided in the House of Lords. If that has been the case, I am disposed to think, when you are told by competent witnesses—men, too, who complain of the existing system—that when Lord Lyndhurst presided in the House of Lords and Lords Cottenham, Campbell, and Brougham attended, it was a most powerful tribunal, and one satisfactory to the country, you are endeavouring to provide a permanent remedy for a temporary evil; that those

disadvantages which you are informed exist in 1856 may in two or three years hence utterly disappear; and that the tribunal may then be as much an object of veneration and confidence as it has hitherto been. I agree with the hon. and learned Gentleman who spoke last, that in the days of Charles II. the House of Lords in its judicial capacity was a new tribunal, and that Lord Hale was opposed to its appellate jurisdiction; but, when so much time has passed since the beginning of the reign of that monarch, I must be content to take things as they are now, and unless that appellate tribunal is quite unsatisfactory—unless I am forced to look for a remedy—I must endeavour to be satisfied with its constitution as it exists at the present moment. At the same time, it appears to me that there is great force in what is stated by several of the witnesses with regard to the Lord Chancellor sitting alone; but I think, with the Lord Justice Clerk in Scotland and the Master of the Rolls in England, that an accomplished and able man giving his full attention to a case, even though it may not relate to the particular law with which he has been most conversant, is likely to come to a better decision than a tribunal composed of inferior men, though they may be more conversant with the precise question in hand. The instance which has been quoted by the right hon. Member for the University of Dublin (Mr. Napier) is rather a proof than the reverse of the truth of that observation. Examine it for a moment. The right hon. Gentleman says that Lord Truro, coming to sit in the House of Lords, was so ignorant with respect to a particular Act of Parliament referring to Ireland—the Irish Registry Act—that he asked for a common text book to take home with him, in order that he might learn the A B C with regard to that law bearing on the case. But the right hon. Gentleman does not stop there, for he goes on to say that Lord Truro, having mastered the case, having made himself perfectly acquainted with that Act of Parliament, came down to the House of Lords and delivered a most luminous and satisfactory judgment. Therefore, Sir, it appears to me that if that were the case, your practice of selecting the ablest man in the legal profession who belongs to the party which happens to be in power, of placing him at the head of the House of Lords, and of confiding to him the appellate jurisdiction, is not so utterly a failure or so entirely disgraceful an ar-

rangement as some hon. and learned Gentlemen at the present day seem to imagine. I admit that there are many things with respect to which we might blame both the Lord Chancellor and some of the ex-Chancellors who sit with him; but they are matters of arrangement which, with a little more care and attention, and with a little more respect to the public, the noble and learned Lords themselves can manage. Thus in the instance of a case of which we have been told instead of two noble Lords delivering an elaborate judgment, and a third saying that he was not aware the case was coming on that day, and was not prepared to give his decision, I think it would have been respectful to the public and decorous to the parties whose interests were to be adjudicated upon if the case had been adjourned to another day. Again, Sir, great fault is found with respect to some defects of manner, in some of the noble and learned Lords—for instance, a noble and learned Lord, whose qualifications as a Judge no one will question—Lord St. Leonards—is much blamed because he has been seen to slap the table with his hand. Now really, Sir, are we going to alter the whole jurisdiction of the court of last resort because one of the Judges slaps with his hand upon the table? These are matters which should be remedied by the noble and learned Lords themselves. They should agree to sit together, and wear an official costume, if necessary; they should do some things far more essential than those to which I have adverted; they should, above all, very much diminish the expense of those printed copies and of all those preparatory proceedings which are now necessary before a case can come into the House of Lords. Why, Sir, these are vestiges of the time when lay Lords gave their opinions in the House, and I have no doubt that three-fourths of the expense might be saved. There is another point, to which the right hon. Baronet the Member for Carlisle has adverted, and which I know engaged the attention of Lord Cottingham. The noble and learned Lord thought of recommending that a Judicial Committee of the House of Lords should sit during the recess of Parliament; that at the opening of the Session they should make a report upon the several cases they had heard; and that then the House of Lords should be moved to confirm their report and deliver judgment accordingly. Why, Sir, that would remedy a great part of the evil complained of. It is complained

Lord John Russell

that, during a period of two or three months, most useful for judicial purposes in other courts, the House of Lords does not sit. I have shown how that might be remedied without any such alteration as that proposed by the Bill now before the House. But, Sir, if I were disposed to yield to the learned authorities which have been quoted in favour of a change, I should still remain of opinion that the proposed remedy must result in making the tribunal worse than that which now exists. The Attorney General spoke of the mischief and impropriety of a Lord Chancellor sitting alone in the House of Lords and overruling decisions which the Superior Courts at Westminster, or the Lords Justices, or any other tribunals, much respected in the country, have arrived at. Let us suppose another case. Let us suppose the Lord Chancellor, a very eminent man, thoroughly qualified for the duties entrusted to his charge, sitting in the House of Lords with two puisne Judges, or persons holding the rank and receiving the pay of puisne Judges, and those two individuals overruling the decisions of the Superior Courts of common law, and of the Lord Chancellor into the bargain. It appears to me, Sir, that such a tribunal, instead of being an improvement, would be worse than the one now in existence. I can well conceive the advantages of a Court such as that which the hon. and learned Member for Suffolk (Sir Fitzroy Kelly) has proposed—a tribunal of five persons—the Lord Chancellor presiding at its head, and four Judges receiving £6,000 or £7,000 a year each. Such a position being made an object of ambition to men learned in the law, I can understand that we might have a better Court of Appeal than that which we possess at present. If a change is to be made, I should be in favour of such a change; but what I say is, either leave the Lords' appellate tribunal as it is—either leave that Court of justice to make some improvement in its own constitution and procedure—or, if you have a remedy to propose, let us have a complete and efficient remedy. Let us have a Lord Chancellor, with four of the ablest men you can have, sitting as an appellate tribunal. If you can secure such a tribunal, trustworthy and efficient, I am ready, for one, to vote the necessary funds, and I might go along with the proposal of the hon. and learned Member for Suffolk if a change is to be made. But, I say, do not fall between the two; do not have a tribunal

which is neither the House of Lords nor a good appellate tribunal chosen from the best men who can be found, but a hybrid creation which partakes of both and does not satisfy any of the conditions which the country desires. The tribunal which is to be formed is to sit in the House of Lords; and that appears to me to be the only thing in which it can be said to be the House of Lords deciding appeals. The House of Lords, as the Attorney General said, are very anxious to retain their appellate jurisdiction; but what is it they are wishing to retain? We all know that eighty years ago the lay Lords assisted in the judgments of the Court of Appeal. On the famous Douglas case some lay Peers sat on the twelve days during which the case was heard, and they gave their votes upon it. Indeed, I happened to stumble the other day upon a speech of the Duke of Chandos, in which he claims merit to himself for having attended the legal as well as the political business of the House of Lords. At that time, then, the Court of Appeal was either a good or a bad tribunal, but it was, at least, a reality; it was really the House of Lords presided over by such men as Lord Camden or Lord Mansfield, and therefore could not be said to be uninstructed, with regard to the law, in deciding on these cases. So matters went on until the time of Lord Eldon; but then, all on a sudden, the House declared that two lay Lords should attend, day by day, in order to make a quorum. Two Lords, therefore, often attended at the beginning of a case, two more at the middle, and two more, who had not heard either the beginning or the middle, attended at the end. Why, then the mystery was unveiled—the *arcanum imperii* was at once discovered. Nobody could then pretend that these were lay Lords, hearing and deciding appeals; it was obvious that no one but the Lord Chancellor and the law Lords gave their opinions on such subjects. Well, then, having got over this, the Upper House propose to go a step further, and they say, "Leave these lay Lords out altogether; let only the ex-Chancellors attend; let the Lord Chancellor sit with two other persons," who are not to be, as the ancient Peers were, Judges because they are Peers, but Peers because they are Judges. Why, that completely alters the nature of the tribunal. The Lord Chancellor sits in one room with two Lords Justices, and that is the appellate tribunal of the Court of Chancery.

He sits in another room with two learned Lords as Deputy Speakers, and, because he sits in the same room in which the House of Lords sits in the evening to discuss political matters, that is to be called maintaining the appellate jurisdiction of the Lords. Sir, I hope the House will not give its sanction to such a sham. I really think the House of Lords, if they had not been intent upon this bargain—this compromise, of which the Bill is the result—they would themselves have been ashamed of proposing such a scheme as this, calling it the preservation of their appellate jurisdiction. I have mentioned that there is another question concerned in this Bill, and it is a question upon which I am sorry to touch at all; but it is impossible to avoid it, because the House of Lords have sent down a Bill in which that subject is touched upon. I mean the creation of Peers for life. Well, that is a very grave question, and I own that I very much regret the course which both the Government and the House of Lords have taken. The learned Personage in question might have been made a Peer in the ordinary manner, and he would have had the respect of everybody as an hereditary Peer. I say I am sorry that so unnecessary a step was taken for the purpose, as it were, of trying the question, and I am very sorry that the Lords immediately caught at it as a matter of dispute, and decided in a Committee of Privileges that the noble Lord so created could not take his seat. Sir, I do not think we yet see the end of that decision. We know very well that in the time of Charles II., as the hon. and learned Gentleman who spoke last reminded us, there was a decision of the House of Lords—in fact, several resolutions were passed—to the effect that they possessed original jurisdiction. That they have long since entirely given up. We also know this House decided, and decided upon full authority, that Mr. Wilkes had no right to a seat; and in spite of an immense majority of the freeholders of Middlesex the House of Commons persisted in giving the seat to a gentleman who had a minority of votes upon the poll. These resolutions, however, after being stoutly maintained, were, as we all know, expunged from the Journals of the House, and are now universally acknowledged to be a precedent that ought never to be followed; indeed, when a case afterwards occurred something like it, we pursued a directly opposite course. So I trust that that Resolution of the House of Lords

upon the Report of their Committee of Privileges in respect to Lord Wensleydale will some years hence be rescinded. There is, indeed, a decision by them upon a peerage question, with regard to which such a course has been pursued. They decided, soon after the Union, that a Scotch Peer could not sit in the House of Lords by virtue of an English peerage; but after the lapse of some sixty or seventy years they found they were mistaken in the law; they reversed their decision, and admitted to take his seat another noble Lord who was a Scotch Peer, and had no more claim than the one they had formerly refused to admit. In the same way I trust this decision on the subject of life peerages will not be permanently retained on the Journals of the upper House. The question is a grave one, and has been decided, as I venture humbly to think, without sufficient argument. Everybody knows the doctrine held by Lord Coke, that the Crown possessed the prerogative of making Peers for life; the same doctrine is stated by Judge Doddrige as one which did not admit of doubt; it has been stated over and over again by various text writers, who have all copied this *dictum* of Lord Coke and Judge Doddrige. It so happened, in a case solemnly heard before the House of Lords, that Lord Brougham, when Chancellor, having occasion to refer to the assertion of Judge Doddrige, went on to dispute another *dictum* of this Judge upon peerage law, but he did not notice as a subject for dispute that the Crown might create Peers for life. Lord Wynford followed the Lord Chancellor, and stated he should be very sorry to see the King make Peers for life, as he thought it would do great injury to the constitution; but neither Lord Brougham, nor Lord Wynford, nor anybody who ever mentioned the subject—except Mr. Butler, in a law work—ever positively, and with any authority, contradicted the opinion of Lord Coke. I do not say that that opinion is to be accepted without dispute; but what I do say is, that when the House of Lords had to consider the subject they should have made some further inquiry, and should have heard at their bar some persons to defend the exercise of the prerogative of the Crown. I own I was somewhat surprised that the learned Attorney General did not appear at the bar of the House of Lords in order to defend the Crown in that exercise of its prerogative. But let us see the position in which the question now remains. Contrary to the

John Russell

authority of Lord Redesdale, the House of Lords have refused to allow Lord Wensleydale to take his seat. Do they mean that the Crown is to be deprived of that power which Lord Coke and many great authorities have declared it possesses? They find themselves, as my right hon. Friend (Sir J. Graham) says, in some embarrassment at setting themselves so positively against the prerogative of the Crown. What, then, have they done? They have agreed that a certain number of persons, not more than four, shall hold peerages for life; they have mixed up that important subject of life peerages with the appellate jurisdiction, with which it has nothing whatever to do; and they have laid down that no more than four Peers of this kind shall sit in the House of Lords. Do they intend in this way to take away or circumscribe the prerogative?—a question you may well ask. My Lord St. Leonards, the Lord Chief Justice, and some other Peers, said, that it did take it away; Lord Lansdowne said that it did not. A noble Peer proposed to insert words which would make it clear. But that would have left no subject of dispute in the House, and neither side would adopt it. Then, the House of Lords sent the Bill down here, and we are asked to accept it with its ambiguous phraseology, and to make an Act of Parliament for the convenience of these two parties in the upper Chamber. I will venture to say that, whatever different opinions persons may entertain with regard to the prerogative of the Crown in the creation of Peers for life—and my own views upon that subject may not coincide with those of my right hon. Friend the Member for Carlisle—a more indecent measure, or a more unfit mode for Parliament to deal with the prerogative of the Crown, has never been brought forward. Well, Sir, I will now state, and I will state very briefly, my own opinion upon the subject of the creation of life Peers, as my right hon. Friend has so fully stated his. My own opinion is, that there are so many authorities in favour of the ancient prerogative of the Crown to create life Peers, that, as it is stated over and over again, by the very highest authorities, that Peers have been created with very great limitations, and, among others, with a limitation for life, there can be no doubt as to the ancient prerogative of the Crown. That prerogative, however, not having been exercised for so long a period—not having been exercised during the good times of

the constitution—not having been exercised since the Revolution with regard to any person who has taken his seat in the House of Lords, I am willing to admit that I think that, if such a prerogative were now to be exercised, it would be fitting to lay down, by an Act of Parliament, the exact limits within which it might be exercised. But, then, I think that the question is a very serious one, and one which ought to be dealt with by a Bill relating to that subject alone—a Bill which would require the most mature consideration. I believe that, if we are to have Peers for life, it would be advantageous not to confine those peerages to the profession of the law. There may be gallant admirals and gallant generals whose services are deserving of the approbation and admiration of their country, although they may not be so brilliant as those of Wellington or of Nelson; and such men might, I think, be very fitly placed in the House of Lords as Peers for life. I think, likewise, that if the number of life Peers were fixed at a certain limit, we should not be introducing any anomaly into the constitution, because at the present moment there are in the House of Lords more than seventy Peers who sit for life, or for a term less than life. There are the Irish Peers, who are elected for life; the Scotch Peers, who are elected only for the Parliament; and the Bishops, who hold their seats for life; and I believe that the creation of another set of life Peers, limited in number, selected from men of eminence at the bar, in the naval and military professions, and in statesmanship, would not only not tend to diminish the authority of the House of Lords, but would, on the contrary, tend to give it strength, and would be in conformity with the general spirit of the times. I may be told that there is no necessity for such a course at the present moment. Well, I dare say not; but it is true with regard to the naval and military professions, more so than with regard to the law, that there are not the same means which used to exist for members of that profession to obtain fortunes sufficient to enable them to sustain the dignity of an hereditary peerage. They have no longer those means by which a general in Flanders, or an admiral in the East or West Indies, or in the Pacific, might obtain a fortune sufficient for that purpose; but still we cannot wish to exclude those men from honours which Wellington and Nelson were proud to gain, and upon them we might confer a peerage for life. I think, therefore, that

we should derive great advantage from the creation of life peerages; but I must say that, to confine such creations to four persons in the profession of the law, to say that they shall be life Peers, and that no others shall be admitted to that distinction, would be to place those persons in a most invidious position;—I will not say in a degrading position, but still in a position which many men who are eminent at the bar would not wish to occupy. I come now to my last objection to the Bill, and that is, that I think that its tendency is to offer to the puisne Judges a temptation which ought not to be placed in their way. When once placed on the bench they do not expect promotion, and they are rarely raised to the head of their courts, whatever changes may be made; therefore, practically, there is no temptation in their case. But by this Bill a temptation is held out, especially to the puisne Judges; they are told that they will have easy work, and that instead of being employed the whole year they will, if they obtain one of these seats in the House of Lords, be employed for only a small period of it, and at the same time they will suffer no diminution in their salary. Well, Sir, I say that that is a considerable temptation, and will, I think, tend to deteriorate the constitution of our Courts. It is a great merit, with regard to our courts of justice, that the puisne Judges do not look any further than to the retiring pension to which, after many years' labour, they are entitled. Upon the whole, I have come to the conclusion that, although I see no immediate or pressing urgency, however much I may differ from others in that opinion, for any great reform in the appellate jurisdiction of the House of Lords—for I believe that the House of Lords could themselves make such changes as would render their Court of Appeal satisfactory to the country; still, if a change is to be made, I say, let us have a change which takes away the tribunal of appeal from the House of Lords altogether; and let us establish a tribunal which shall be complete in itself, and which shall consist not of the puisne Judges, but of the most eminent men that can be found in the profession. If it be necessary to introduce a Judge from Scotland, although I must confess that I have never been convinced of the advantage of so doing, then let one be introduced; but, at all events, let us make the tribunal complete—let us provide an effectual remedy for the defects that exist; but, above all, do not, while

you are amending the tribunal of last resort introduce another very grave and serious subject into the Bill; do not at the same time attempt to fetter the prerogative of the Crown in a manner which may be injurious to that prerogative, and which may at the same time be mischievous to the country. If we were at an early period of the Session I might perhaps be content to say, let us send the Bill to a Select Committee; but it is quite obvious that to send it to a Select Committee in the month of July would perhaps be a more polite but not a less effectual mode of getting rid of the Bill during the present Session than by directly negating it. For my own part, I approve the more direct manner of getting rid of it, and I shall, therefore, give my decided vote against the second reading.

THE SOLICITOR GENERAL said, he would trespass very shortly upon the time of the House, but he could not help expressing the regret and pain with which he had observed the tone which the debate had taken. It would be impossible to adequately express the pain which every one who was anxious to amend the judicial institutions of the country must have felt in listening to the aspersions and criticisms of the right hon. Member for Carlisle. The House of Lords, the Bench, and the Bar, had been equally disparaged, and dirt had been thrown upon them by the right hon. Gentleman. He was sorry also to say that he could not concur in many of the observations of the noble Lord, from whom he should have expected much sounder and more constitutional doctrines. He had not been surprised at the observations of the right hon. Baronet, because that right hon. Gentleman acted up to the maxim *sibi constat*; but he had certainly been much amazed at the observations of the noble Lord. He would beg the attention of the House while he addressed to them a few remarks with regard to the manner in which the House of Lords obtained and exercised their appellate jurisdiction. The House had been told that the authority of the House of Lords as an appellate tribunal was a mere usurpation. Now, it was impossible to imagine a greater mistake. There was not a greater mistake in point of history which could be committed by any hon. or right hon. Gentleman in that House. The House of Lords had always possessed a jurisdiction upon writs of error, and it had certainly been a Court of last appeal in all questions of law carried up from the courts of common law at

Lord John Russell

Westminster. It was undoubtedly true that, after the jurisdiction of the Court of Equity was fully established, a difficulty had been felt with regard to an ultimate appeal from the Lord Chancellor sitting in the Court of Chancery; but ever since 1685 it had been settled, without any question whatever, that the House of Lords was the depository of that appellate power, and had the right to exercise it, and that right had been conceded to them ever since. In Queen Anne's time the right was not questioned, though there was some dispute between the Commons and the Lords, but it never proceeded further than a few words. Now, he asked the noble Lord the Member for London whether he was not content with the constitutional character of an authority which had been exercised, without dispute, from the time of the Revolution? Unquestionably the noble Lord was; but what was meant, then, by challenging the authority of the House of Lords in judicial matters, and by the revolutionary doctrine that the admitted privileges of that House should be called in question? He should like to ask what opinion would have been entertained by that great man by whose side the right hon. Baronet the Member for Carlisle sat so long on the Ministerial bench if he had heard the opinions now broached by the right hon. Baronet? He thought, therefore, that he might call on the calm and considerate portion of the House of Commons to address their attention to the consideration of the Bill, with an acknowledgment of the unquestionable constitutional right of the House of Lords, and with the conviction that it would be doing something revolutionary if it interfered with that right, and remembering that the best security they could have for their own privileges was to respect the privileges of the other branches of the State. Such, then, being the right of the House of Lords, all that the House of Commons had to consider was, whether any assistance should be given to the Lords in the exercise of their appellate jurisdiction. It was unquestionably the character of the people of this country to endure sufferings very long; and it was unfortunately the temper of a great number of Gentlemen in the House of Commons, when a remedy was proposed for some acknowledged evil, immediately to quarrel with the remedy, not remembering that they could not have any unmixed good, and consequently the grievance for a long period remained un-

redressed. The House of Lords had been recognised for the greater part of the time during which it had exercised this jurisdiction as a high judicial authority; it had had the confidence of the people in the wisdom of its decrees and judgments, which were unimpeached and unimpeachable; but with respect to the mode in which the jurisdiction was exercised there were great inconveniences. One objection was, that the Lord Chancellor was frequently the only Judge in the House of Lords, and as he had sometimes to attend the Cabinet meetings, and sometimes was occupied in other official duties, the result was that, in consequence of the Lord Chancellor's absence, a less portion of the day was devoted to the hearing of a cause in the House of Lords than otherwise would be appropriated to that purpose. Appeals too to the House of Lords came there upon every variety of subject and from every inferior Court of judicature, and it could not be expected that the Lord Chancellor, or any one, or any two men, could with propriety be trusted with pronouncing sentences having reference to the decisions of other Courts, or to a state of law of which they had neither knowledge nor experience, but which, like the laws of the Medes and Persians were irreversible? Was it wise to commit to any one or two individuals this absolute power? Let the House take the analogy of the common law tribunals. In the Court of Queen's Bench four Judges were always sitting *in banco*; the same was the case in the Courts of Common Pleas and Exchequer; and in all, plurality of voices was recognised as the leading characteristic. Now it was proposed to adopt the same rule with regard to the Court of Appeal in the last resort. Undoubtedly, up to the present time this want had not been felt; but that had arisen from accident. He agreed in the eulogies pronounced on the administration of justice in the House of Lords at the time when Lord Lyndhurst, Lord Brougham, Lord Cottenham, and Lord Campbell were in daily attendance at that house, and combined to administer justice there. At that time there was no necessity or call for altering the tribunal; but circumstances altered, and now the advantage of the attendance of more than one or two law Lords could not be obtained. This evil had been felt in former times. It was complained of when Lord Eldon sat alone, though that noble and learned Lord was always most

anxious to have Lord Redesdale constantly with him. In like manner, in the time of Lord Hardwicke, Lord Mansfield frequently acted as his assessor. But the evil had never been felt so strongly as during the last year, and the House of Lords, at the present time, failed to give satisfaction as the great Court of appellate jurisdiction; and all the judicial institutions of the country must be in an unsatisfactory condition when the appellate tribunal—the keystone of the arch—was not constituted so as to give satisfaction. The necessity of a change was therefore obvious: but were they to alter the system by pulling down the authority of the House of Lords, or should they not rather try to provide a remedy for the defects that had been pointed out? Deputy Speakers used, in former days, to be appointed from time to time to supply any deficiency in the judicial strength of the Upper House, and it was now desired to make that perpetual which had been previously resorted to only on a few occasions; and what was it that those who wished to pull down the present tribunal intended to set up instead? The House had had a most impossible and most absurd sketch presented to it by the right hon. Baronet the Member for Carlisle, and the noble Lord the Member for London eulogised the time when lay Lords—namely, those Peers who had not devoted themselves to the study of the law—were invited, solicited, and induced to take a part in the determinations of the judicial tribunal of the House of Lords. Was not the noble Lord aware of the scandal created by the practice? Does the noble Lord never remember reading that in those times persons who were parties to appeals who had handsome wives or daughters, used to send them to present petitions to Peers, in order to enlist their favour, and obtain a favourable judgment? The House was now asked to reject the present Bill, in order that it might pave the way for the introduction of some revolutionary measure. Was the House prepared to do that? Some hon. Gentlemen, who had not properly attended to the subject, said that the appellate jurisdiction of the House of Lords might be transferred to the Judicial Committee of the Privy Council. But the Judicial Committee of the Privy Council was open to the same objections as the House of Lords; and it was a tribunal gathered from all quarters at great inconvenience to the Courts whose Judges were taken away to sit in it. At the present

moment the Court of Appeal in Chancery was shut, and had been for the last eight or nine days, to the great inconvenience of all the suitors, because the Lords Justices were sitting with the Committee of the Privy Council; there was the same inconvenience felt in the Privy Council as in the House of Lords; the suitors never knew of whom the tribunal would consist, they never knew when it would sit, nor was it certain that all the Judges would remain collected together until the business before them was disposed of. These were evils which would only be augmented by transferring the appellate jurisdiction of the House of Lords to the Privy Council. There would be merely the satisfaction of putting down an ancient tribunal—an old established right existing in the House of Lords—in order to transfer it, for the sake of change, to a tribunal of yesterday; and which it would be necessary to reconstruct in the same manner as they were now desired to reconstruct an old-established institution. Surely, it was better to improve, than to pull down merely for the sake of change. Some hon. Members had spoken of the Bill as being a miserable measure. That was the complimentary language applied to it by the right hon. Baronet the Member for Carlisle and by the hon. Member for Tavistock. If objection were taken to any of the details, to the number of the tribunal and the remuneration to be given to its members, no Gentleman who voted for the second reading of the Bill would be prevented from discussing any improvements in the Bill in Committee. Speaking for himself, he should be very glad if the basis of the tribunal could be enlarged, and if, in point of emolument, it could be rendered a greater object of ambition for the members of the law. With regard to the injurious allusion made by the right hon. Baronet the Member for Carlisle, that this Bill was promoted by members of the Bar from some idea of advantage to themselves, it seemed to be forgotten that the Bill carefully provided that no one should be transferred to the judicial tribunal of the House of Lords who had not already filled some judicial office; and members of the Bar, therefore, who were Members of that House, might discuss the Bill without being open to any such imputation. In fixing the number of the tribunal the House of Lords seemed to contemplate that they might always expect in their body one or more ex-Chancellors, who

The Solicitor General

would attend to hear appeals: but he was not quite so certain that that expectation would always be realised, and therefore it was that he should be glad to see the constitution of the tribunal enlarged. From the observations which had been made in the course of the debate on the question of prerogative—which, however, had no real connection with the Bill—it was clear to him that there was a great deal of confusion upon that point. Nobody questioned, or ever had questioned, the prerogative of the Crown to create Peers for life. The question simply was, whether Peers for life were entitled to sit and vote in the House of Lords; and, therefore, what the noble Lord the Member for London referred to—the *dictum* of Coke and of those who repeated it after him—might be taken as an assertion of the acknowledged right of the Crown to create Peers for life, without any reference to the constitutional right of a Peer so created to take his seat in the House of Lords. It was the constitutional right of the House of Lords to determine who was entitled to take his seat in that House. That was recognised by a proceeding with which they were all familiar. Upon the death of every Peer, and upon the transmission of every Peerage, the House of Lords sat in judgment as a judicial tribunal—in the form of a Committee of Privileges—and determined whether the claimant had proved his constitutional right to take his seat as a member of that body. This Bill, though it might be open, he confessed, to a difference of construction in some points, did not affect the question of prerogative at all, except where, in a manner perfectly constitutional, it put a limit, for the purposes of the Bill, on the number of persons to be created Peers for life, with the right of becoming members of the House of Lords. To put such a limitation upon the prerogative was not unconstitutional. The prerogative had been limited already in the Act of Union with Scotland and in the Act of Union with Ireland; and if matters had come to this predicament that there was a question between the Crown and the House of Lords upon which those who conceived that the Crown had an unbounded prerogative were met by those who held, on the contrary, that the prerogative was limited, was it wrong that there should be some expressions of limitation of the prerogative in a Bill of this description? The noble Lord the Member for London and the right hon. Baronet the Member for

Carlisle urged the House of Commons to pronounce that upon this question they were right, and the House of Lords, who were by the constitution the proper exponents of the prerogative right upon this subject, were wrong; and because it contained this limitation clause to reject the Bill altogether. Such a course would be rash beyond all measure. Was the House in a situation to pronounce an opinion upon this question? Were they to reject a measure which would be of such service to the appellate tribunal in the last resort because it contained a limitation of the prerogative which the House of Lords believed to be perfectly legal and constitutional, and to which the assent of the Crown must be given before it could pass into law? Was the House of Commons to prevent this concord between the House of Lords and the Crown, and to re-open this question, which was now about to be settled? This was a course which he thought the House of Commons would shrink from. They would not, he thought, feel themselves called on to refuse this Bill, which was the result of an agreement between the Crown and the House of Lords, simply because it contained a clause which limited the prerogative in a perfectly legal manner. The unanimous testimony of those who had for the last fifteen or twenty years practised in the House of Lords was that this would be a great boon and a great advantage to the people of England. He hoped that their evidence, which was perfectly disinterested, would have some weight with the House of Commons, and that that House would not signalise the last days of its present Session by the rejection of this amendment of the law, which came from the other House of Parliament, which was sanctioned by the Crown, which would unquestionably remove a great and long-standing grievance, and to which there was no rival, because no intelligible and rational scheme had been brought forward in competition with it.

Question put.

The House divided :—Ayes 191; Noes 142: Majority 49.

List of the AYES.

Agnew, Sir A.	Ball, J.
Annesley, Earl of	Baring, H. B.
Antrobus, E.	Barrington, Visct.
Archdall, Capt. M.	Beckett, W.
Atherton, W.	Bective, Earl of
Baines, rt. hon. M. T.	Bentinck, G. W. P.
Baird, J.	Berkeley, F. W. F.
Ball, E.	Bethell, Sir R.

Biddulph, R. M.	Blandford, Marq. of
Boldero, Col.	Bouverie, rt. hn. E. P.
Bramley-Moore, J.	Brand, hon. H.
Bruce, Lord E.	Buckley, Gen.
Buller, Sir J. Y.	Burrowes, R.
Campbell, Sir A. I.	Carnac, Sir J. R.
Cayley, E. S.	Cecil, Lord R.
Chambers, T.	Chelsea, Visct.
Christy, S.	Clive, hon. R. W.
Cockburn, Sir A. J. E.	Cole, hon. H. A.
Coles, H. B.	Collier, R. P.
Conolly, T.	Corry, rt. hon. H. L.
Cowper, rt. hon. W. F.	Craufurd, E. H. J.
Dalkieth, Earl of	Davies, D. A. S.
Deedes, W.	Deering, Sir E.
Disraeli, rt. hon. B.	Drumlanrig, Visct.
Duncan, Visct.	Dunlop, A. M.
Elmley, Visct.	Esmonde, J.
Farnham, E. B.	Feilden, Major
Fellowes, E.	Ferguson, Sir R.
FitzGerald, rt. hon. J. D.	Fitzwilliam, hon. G. W.
Follett, B. S.	Forester, rt. hon. Col.
Freestun, Col.	Freshfield, J. W.
Galway, Visct.	Gilpin, Col.
Goddard, A. L.	Gooch, Sir E. S.
Graham, Lord M. W.	Greene, T.
Gregson, S.	Greville, Col. F.
Grey, rt. hon. Sir G.	Grey, R. W.
Grogan, E.	Hale, R. B.
Hall, rt. hon. Sir B.	Hamilton, Lord C.
Hamilton, rt. hn. R. C. N.	Hardy, G.
Hayes, Sir E.	Heard, J. I.
Heathcote, hon. G. H.	Heneage, G. F.
Henley, rt. hon. J. W.	Herbert, H. A.
Herbert, Sir T.	Higgins, Col. O.
Hildyard, R. C.	Horsfall, T. B.
Horsman, rt. hon. E.	

Hughes, W. B.	Johnstone, J.
Jolliffe, Sir W. G. H.	Jolliffe, H. H.
Jones, Admiral	King, J. K.
Kingscote, R. N. F.	Knatchbull, W. F.
Knight, F. W.	Knightley, R.
Labouchere, rt. hon. H.	Laslett, W.
Lemon, Sir C.	Lennox, Lord A. F.
Leslie, C. P.	Lewis, rt. hn. Sir G. C.
Liddel, hon. H. G.	Lindsay, hon. Col.
Littleton, hon. E. R.	Lockhart, W.
Lovaine, Lord	Lowe, rt. hon. R.
Lowther, hon. Col.	Luce, T.
Lushington, C. M.	Macartney, G.
MacGregor, John	Malins, R.
Mangles, R. D.	March, Earl of
Massey, W. N.	Matheson, Sir J.
Miles, W.	Milner, Sir W. M. E.
Moffatt, G.	Monck, Visct.
Moncrieff, rt. hon. J.	Morgan, O.
Mostyn, hn. T. E. M. L.	Mowatt, F.
Mowbray, J. R.	Mundy, W.
Naas, Lord	Napier, rt. hon. J.
Neeld, J.	Newark, Visct.
Newdegate, G. N.	Newport, Visct.
Norreys, Sir D. J.	North, Col.
O'Connell, Capt. D.	Oliveira, B.
Osborne, R.	Paget, Lord A.
Pakington, rt. hn. Sir J.	Palmer, R.
Palmerston, Visct.	Peel, Sir R.
Peel, Gen.	Pennant, hon. Col.
Philipps, J. H.	Rolt, P.
Russell, F. W.	Rust, J.
Scully, V.	Seymer, H. K.
Sibthorp, Maj.	Smith, rt. hon. R. V.
Smith, A.	Smyth, Col.
Spooner, R.	Stafford, A.
Stafford, Marq.	

Stanhope, J. B.	Watkins, Col. L.
Stanley, Lord	Welby, Sir G. E.
Starkie, Le G. N.	Whatman, J.
Steel, J.	Whiteside, J.
Stracey, Sir H. J.	Whitmore, H.
Stewart, Sir M. R. S.	Wigram, L. T.
Sutton, J. H. M.	Willoughby, Sir H.
Taylor, Col.	Wilson, J.
Thesiger, Sir F.	Wood, rt. hon. Sir C.
Vance, J.	Wrightson, W. B.
Villiers, rt. hon. C. P.	Wyndham, H.
Waddington, D.	Wyndham, W.
Waddington, H. S.	Wynne, W. W. E.
Walpole, rt. hon. S. H.	TELLERS.
Walsh, Sir J. B.	Hayter, W. G.
Warren, S.	Mulgrave, Earl of

List of the NOES.

Adair, Col.	Grenfell, C. W.
Anderson, Sir J.	Gurney, J. H.
Baldock, E. H.	Hadfield, G.
Baring, rt. hn. Sir F. T.	Hamilton, J. H.
Barnes, T.	Hankey, T.
Baxter, W. E.	Harcourt, G. G.
Beaumont, W. B.	Hastie, Alex.
Biggs, J.	Headlam, T. E.
Black, A.	Heathcote, Sir W.
Blackburn, P.	Hogg, Sir J. W.
Bonham-Carter, J.	Holland, E.
Bramston, T. W.	Hotham, Lord
Brocklehurst, J.	Howard, hon. C. W. G.
Brotherton, J.	Hutchings, E. J.
Brown, W.	Ingram, H.
Bruce, H. A.	Kendall, N.
Butt, G. M.	Kennedy, T.
Byng, hon. G. H. C.	Kershaw, J.
Cardwell, rt. hon. E.	King, hon. P. J. L.
Cavendish, hon. G.	Kinnaird, hon. A. F.
Chambers, M.	Langston, J. H.
Cheetham, J.	Langton, H. G.
Clay, Sir W.	Lascelles, hon. E.
Cobbett, J. M.	Layard, A. H.
Colville, C. R.	Lennox, Lord H. G.
Compton, H. C.	Locke, J.
Cowan, C.	MacEvoy, E.
Crossley, F.	M'Cann, J.
Currie, R.	MacGregor, James
Davie, Sir H. R. F.	Magan, W. H.
Denison, E.	Maguire, J. F.
Denison, J. E.	Milligan, R.
De Vere, S. E.	Milnes, R. M.
Dillwyn, L. L.	Michell, W.
Duncan, G.	Moore, G. H.
Duncombe, hon. Col.	Morris, D.
Duncombe, hon. W. E.	Napier, Sir C.
Egerton, W. T.	O'Brien, P.
Ewart, W.	Palk, L.
Ewart, J. C.	Paxton, Sir J.
Fenwick, H.	Peacocke, G. M. W.
Ferguson, Col.	Pechell, Sir G. B.
Ferguson, J.	Pellatt, A.
Fergusson, Sir J.	Perry, Sir T. E.
Fitzgerald, W. R. S.	Phillimore, J. G.
Foley, J. H. H.	Pigott, F.
Forster, C.	Pilkington, J.
Forster, J.	Portman, hn. W. H. B.
Gaskell, J. M.	Price, Sir R.
Gladstone, Capt.	Price, W. P.
Goderich, Visct.	Pritchard, J.
Gordon, Hon. A.	Ricardo, O.
Graham, rt. hon. Sir J.	Ricardo S.
Greene, J.	Rice, E. R.

Rich, H.	Tempest, Lord A. V.
Ridley, G.	Thompson, G.
Robartes, T. J. A.	Thornely, T.
Roebuck, J. A.	Thornhill, W. P.
Russell, Lord J.	Tottenham, C.
Russell, F. C. H.	Vernon, G. E. H.
Sawle, C. B. G.	Vivian, H. H.
Scrope, G. P.	Walmsley, Sir J.
Shafto, R. D.	Watson, W. H.
Shee, W.	Whitbread, S.
Shelley Sir J. V.	Wickham, H. W.
Smith, J. B.	Wilkinson, W. A.
Smollett, A.	Williams, W.
Somerville, rt. hn. Sir W.	Wortley, rt. hon. J. S.
Stirling, W.	Wyvill, M.
Strickland, Sir G.	
Strutt, rt. hon. E.	TELLERS.
Stuart, Capt.	Bowyer, G.
Tancred, H. W.	Phillimore, R. J.

Main Question put, and *agreed to*.
Bill read 2^o.

INCUMBERED ESTATES (IRELAND) BILL.

Order for Committee read; House in Committee.

MR. WHITESIDE moved the addition of a new clause, limiting the number of the Commissioners to two. The evidence given before the Select Committee had shown that it was quite impossible for the present Chief Commissioner of the Incumbered Estates Court to transact the business of that office without neglecting his duties as a Baron of the Exchequer. At present a great portion of the time of the Commissioners was taken up in listening to appeals from the decision of each other; and, as those appeals would, according to the terms of a Bill to be brought before the House to-morrow, be transferred to a new appellate court, two Commissioners would be sufficient to dispose of the business of the Incumbered Estates Court.

Clause *brought up*, and read 1^o.

MR. J. D. FITZGERALD objected to the clause as unwise and inexpedient. The Crown could now, if it chose, reduce the number of Commissioners to two without the aid of a new Act of Parliament. The Court had existed for seven years, had given great satisfaction, and it was desirable that it should be continued. Owing to the want of judicial strength arrears had accrued, and now the hon. and learned Gentleman proposed to reduce the judicial strength of the Court. He (Mr. Fitzgerald) did not say that it was advisable to retain Mr. Baron Richards in the double capacity; but it was perfectly consistent with relieving that learned personage of the extra duties to continue the same number of Commissioners as there were at present.

MR. WHITESIDE said, that no answer had been given to the case he put, because the Commissioners were doing less than nothing.

SIR JAMES GRAHAM regretted that they had to discuss the question in the absence of the Report of the Committee. He regretted that the Bill was only a continuing Bill for one year. Why should it not be a continuing Bill for a longer period? It had been discussed in Committee, whether the power of the Court should not be extended to unencumbered property, but no decision had been come to. The Real Property Commissioners were considering the whole question, and he thought it would be advisable to continue the powers of the Court for at least two years, and till the end of the next Session of Parliament. They were about to give an appeal from the Court itself to an independent Court, which he thought was most desirable. He thought that by increasing the staff of the Court, two of the Judges would be able to clear off all the arrears of business. He did not think that an inferior officer should be appointed. He was of opinion that Baron Richards should return to the Exchequer Court and circuit, and they had the opinion of the other two Judges of the Court that they would be able to transact double the amount of business with an increased staff.

MR. J. D. FITZGERALD said, he expressed in the Committee the opinion that it was desirable that Baron Richards should return to his Court and his circuit, and he believed the Government were of the same opinion. But whilst that was his opinion, he wished to say that Baron Richards was called on to undertake the duties of Chief Commissioner of the Incumbered Estates Court at a time of great pressure, that he performed his duties with great ability, and he believed he had no personal desire, but the contrary, to continue a Judge of the Incumbered Estates Court. For his own part, he should have no objection to increase the term of this Act to two years. He had, in fact, limited it to one to meet the objections of many members of the Committee which sat upon this subject.

MR. NAPIER supported the Amendment.

MR. HENLEY said, that the evidence taken in the Committee proved that two Commissioners, with an adequate staff, would be sufficient to discharge all the duties of the Court, more especially as it

had been relieved from its appellate business.

MR. VINCENT SCULLY trusted that, whatever arrangement was come to, no slight would be cast on Baron Richards.

MR. J. D. FITZGERALD, explained, in answer to Mr. Henley, that the Incumbered Estates Court would still have to exercise an appellate jurisdiction of considerable extent.

Motion made and Question put, "That the clause be now read a second time."

The Committee *divided*:—Ayes 48; Noes 83: Majority 35.

MR. WHITESIDE said, he should raise the same question on the third reading.

The House resumed.

Bill *reported*, without Amendment.

The House adjourned at a quarter after Two o'clock.

HOUSE OF LORDS,

Tuesday, July 8, 1856.

MINUTES.] PUBLIC BILLS.—1^a Registration of Leases (Scotland); Commons Inclosure (No. 2); Courts of Common Law (Ireland).

2^a Marriage and Registration Acts Amendment; Metropolis Local Management Act Amendment (No. 2); Turnpike Acts Continuance; Advowsons; Intestates Personal Estates; Militia Ballots Suspension; Grand Juries (Ireland); Charities.

3^a Statutes not in Use Repeal; Evidence in Foreign Suits; Exchequer Bills (£4,000,000); Cambridge University.

THE CRIMEAN BOARD OF INQUIRY — REPORT OF THE COMMISSIONERS — QUESTION.

THE EARL OF LUCAN asked the Secretary of State for the War Department, when Her Majesty's Government would lay before Parliament the Report of the Chelsea Board of General Officers? He was aware that the Report had only been signed by the Commissioners on Friday last, and that it had first to be laid before Her Majesty for her approval; he was also aware that some little time must elapse before it could be laid upon their Lordships' table. Still, when he recollected that they were then in the middle of July, and that it was expected Parliament would be up in the course of another ten days or a fortnight, he did not think it unreasonable to expect of the Government that they would use all the despatch possible in considering this important paper, and presenting it to the House. He was sure he spoke the

feelings of the House and of the country when he said that much disappointment would be experienced if the noble Lord were not prepared, at all events, to state some early day on which the Report would be ready to be presented to Parliament.

LORD PANMURE said, it was impossible for him to name any day on which he could undertake to lay the Report before Parliament. As the noble Earl had stated, it was signed only on Friday last, and he (Lord Panmure) knew from private information that it was at present in the hands of the Commander in Chief. He deeply regretted to say that he feared the sudden illness of that gallant officer might prevent the Report going to Her Majesty for some little time. After that the Report would for the first time be in the possession of the Government, and he quite agreed with the noble Earl that as soon as it was in the possession of the Government, and they had had an opportunity of forming an opinion upon it, they ought to lose no time in laying it before Parliament.

THE EARL OF LUCAN could not say that the answer of the noble Lord was a satisfactory one. What he wanted to know was, whether the Report had or had not been presented to Her Majesty?

LORD PANMURE: It has not.

THE EARL OF LUCAN: It is generally supposed that it was presented to Her Majesty yesterday.

LORD PANMURE: It has not been presented to Her Majesty, at least so I am informed.

THE EARL OF LUCAN said, I understand that it was presented to Her Majesty yesterday. But, be that as it might, I am not satisfied with the answer of the noble Lord, and will renew my question on Friday.

ADVOWSONS BILL.

THE EARL OF SHAFTESBURY moved the Second Reading of this Bill, which had passed through the Commons without opposition, and was intended to remove a great and growing evil. The immediate object of the Bill was to facilitate the sale of advowsons. As their Lordships were all aware, in many parts of this country advowsons were in the hands of large numbers of lay owners, and the presentations being generally by popular election scenes occurred which were very disgraceful. In fact, at these elections everything that was most scandalous to the Church,

The Earl of Lucan

the good order, and the decencies of society, was perpetrated. He held in his hand a letter from Bilston, giving an account of the last election for a presentation that took place there. The election lasted five days, and 3,123 electors voted—every inhabitant, whether a householder or not, being entitled to vote. The letter stated that the cost to the unsuccessful candidate was about £1,600, and to the successful one about £5,000; that during the whole period of the election all the public-houses were open, and that drunkenness prevailed to a fearful extent. The writer added, that the whole thing was as bad as it could be, and that the moral effects remained for a very considerable time afterwards. This was but a repetition of a similar scene in 1813, and as the value of the living was increasing, at any future election a still more disgraceful scene, if such were possible, might be expected. Some time ago an election of this kind took place in Clerkenwell parish, in this metropolis; and so disgraceful, blasphemous, and indecent, were the expressions made use of by parties who took part in the proceedings, that he could not think of repeating them to their Lordships. All the indecent jokes and badinage that were uttered at elections for Members of Parliament, or any other public election where large masses were brought together, were exchanged amongst the crowd at these presentation elections; and surely such scenes on such occasions were in the last degree scandalous. The number of livings in this state of suffrage was about 150. The incomes attached to most of them were very small; in the majority of cases not reaching £150 a year. In 100 instances there were no parsonage houses. As the value of these livings was much too small to allow of a private Act of Parliament in each instance, it was now proposed to deal with the whole by a public Act. The Bill provided that the owners of these livings, or those in whom the right of election was vested, should meet and determine by a majority whether or not the advowson should be sold; that if sold, it should be absolutely vested in trustees for sale, and the money appropriated in paying the costs of sale, in providing a parsonage house where no such accommodation existed, or repairing the parsonage if dilapidated, in raising the value of the living to £150 a year, in providing for the maintenance of the fabric of the church, in the erection

of schools, and increasing the amount of church accommodation in the parish.

Bill read 2^a, and committed to a Committee of the whole House on Thursday next.

INTESTATES' PERSONAL ESTATES BILL.

EARL FORTESCUE said, that the object of this Bill was to establish an uniform administration of the estates of intestates by abolishing the customs of York and of London, which in the provision for widows and in some other respects differed materially from the disposal of intestate property, under the statute of distributions, and often led to doubts and difficulties, especially the custom of London, extending as it did to all freemen, even honorary ones of the City, or of any of its Companies, though their residence and their property might be ever so remote from it. The Bill had passed the other House without opposition, and he believed was approved of by noble and learned Lords on both sides of this House.

Bill read 2^a, and committed to a Committee of the whole House on Thursday next.

THE SCUTARI MONUMENT.

THE EARL OF HARRINGTON, on rising to address some queries to Her Majesty's Government on this subject, remarked that the object of the monument was to commemorate the character of the British soldiers, their toils, their endurance, their sufferings, and their heroic deeds. To execute such a work the first sculptor of the day should have been selected. The gentleman actually chosen was Signor Marochetti, an artist of considerable talent, peculiarly famed for massive equestrian statues; in other branches respectable, but not like Mr. Gibson, and some others, holding a first place in art. As an architect, Signor Marochetti was not known to fame; but, indeed, it would be difficult, if not impossible, to find one person equally skilled in architecture and sculpture, as in the days of Michael Angelo, yet it would have required the skill of both those arts to produce a proper monument in the style of that which had been produced. There was nothing very remarkable about the Scutari monument; we had many in this country of the same description. It was very defective in its proportions, inasmuch as the pedestal was as high as the superstructure, whereas the base of Cleopatra's Needle was only

one-third the height of the pillar itself. Many obelisks in England were superior to Signor Marochetti's Scutari monument, in point of taste, beauty, and design. One point about it was very remarkable—the four unfortunate weeping angels could not possibly stand; or if they did, they must be standing either upon their wings, which extend considerably below their feet, or in a flying position. The observation had been made with regard to the statue in the Parthenon—that if it had attempted to stand its head would have gone through the roof. Marochetti was in a similar state with regard to his four weeping angels. The sculptors of this country did not wish to disparage the talent and genius of Signor Marochetti, whom they all highly respected, but they complained that a system of favouritism had been adopted, and that equal justice had not been done to the sculptors and architects of this and other countries. Entertaining the same opinion, in justice to those sculptors and architects he would put the following questions to the Government:—1. By whose authority the Scutari Monument had been undertaken? 2. Who had selected Signor Marochetti to undertake the work? 3. From what fund the payment was to be made? 4. Why the work had not been subjected to public competition, so that the sculptors of England, France, Italy, and Germany, might have sent in models, and an obelisk have been produced that would have immortalised our warriors and the sculptor for ages to come.

LORD PANMURE, in reply to the questions of the noble Earl, said he might observe, in the first place, that the noble Earl had mis-stated the objects of the monument to be erected at Scutari. It was not a monument intended to commemorate the heroic achievements of our soldiers during the late war, but to be a tribute to the memory of the sailors, the soldiers, and the marines, who had sacrificed their lives in the defence of their country. It was a tribute offered by the nation to the memory of those men. With reference to the source from which the idea proceeded, he might say generally that it was undertaken by the Government in accordance with the public wish, that such a monument should be erected at Scutari, and that the money for the purpose had been voted by Parliament. As to the selection of the artist, if there were any fault in this respect, that responsibility rested with the Government. As to the question of com-

petition in those matters, the noble Earl would permit him to observe that the sculptors and artists of this country were much divided in opinion as to the propriety of submitting the plans for public monuments to general competition, so much so, indeed, that in several cases many of our first artists had declined to offer plans for public buildings. The Government selected Baron Marochetti, as being famous for some colossal works he had already produced, and the work he had designed for the monument of Scutari had so far commended itself to public favour that he had not before heard the design condemned as the noble Earl had condemned it. Indeed, he thought that little fault could be found in it. So far as his own opinion went, he believed that the monument about to be erected at Scutari would be one of the finest the country had produced, and an honourable and handsome tribute by this nation to the memory of those brave men whom it was intended to commemorate. He thought that Baron Marochetti should not, at all events, be considered a foreign artist, for he had gained for himself a reputation in this country, and was looked upon more as an artist of this country than as a foreign artist. But even if he were viewed in the light of a foreign artist, the noble Earl could have no reason to complain of him, because it was his wish that the work should be competed for by the artists of England, Italy, France, and other countries. He (Lord Panmure) was quite certain that in Baron Marochetti's hands the work would be executed in a manner satisfactory to the country as well as creditable to the artist.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Tuesday, July 8, 1856.

MINUTES.] PUBLIC BILLS.—1° Customs.
3° Registration of Leases (Scotland).

PUBLIC HEALTH BILL.

Order for Committee read.

Motion made and Question proposed, “that Mr. Speaker do now leave the chair.”

MR. KNIGHT, in moving as an Amendment that the House would upon that day three months resolve itself into the said Committee, said, that when the Public Health question was brought forward in 1848 it was considered to be virtually

Lord Panmure

settled by the Bill of that year, and the present Bill, differing as it did so materially from that measure, was a breach of faith with the public. The Bill now before the House differed not only from the Bill of 1848, but also from that which was introduced in 1854. All the stringent clauses of the Act of 1848 were retained, while all the remedial clauses proposed by the Bill of 1854 were omitted. That was his first objection. His second objection was, that it repealed the 145th section of the present Act, which gave the public a right of appeal against the Board of Health; and his third objection was, that it doubled the amount of money allowed to be raised on mortgage of the property of the ratepayers wherever the Act was enforced. Now, that duplication, he contended, was unnecessary. The fact was, a great many of the towns where there were local Boards of Health had spent all the money they were empowered to raise under the Act of 1848, and yet the works were not completed. That had arisen in consequence of the engineers of the General Board of Health having been exclusively employed to make the estimates, the towns themselves not being allowed to employ their own men. Those towns had been assessed at the rate of 1-16th of the yearly value of the property; it was now proposed to subject them to another assessment to the same amount; making the rate 1-8th of the value, and that without giving them any voice at all in the matter. Now he therefore submitted that those parties should be heard before any such tax was imposed upon them. It was his belief that the repeal of the 145th clause would be most injurious. All reasonable protection ought to be afforded against large companies supplying water and gas; and the right of appeal which the 145th clause gave afforded that protection. Many of the local Boards formed themselves into those large companies, and they had the power to oppress the neighbouring districts, and it was only by the right of appeal that those districts had any check upon such local Boards. To show how that portion of the Bill would work, he would mention the case of the town of Luton, with a population of 10,000 or 12,000 inhabitants. It used to be drained by cesspools. There ran by the town the river Lea, which was from twenty to thirty feet wide, and capable of being used for all sorts of domestic purposes, and it was always full of fish. A Board of Health

was established at Luton, and they immediately drained the town and emptied their sewers into that river, rendering it a most horrible nuisance. The river was turned into a filthy open sewer; the fish all died; the water was unwholesome for drinking purposes; the sheep that were washed in the river came out dirtier than they went in, and the bottom of the river was covered for full thirty inches deep with decomposed matter, having only fifteen inches in depth of water running over it. Nothing could be more disgusting, or more contrary to the rules laid down by the Board of Health themselves, who, in their Report on the use of impure water, had shown that cholera and other disease were greatly increased by persons drinking bad water. The people of Luton, by virtue of the 145th clause of the existing Act, took proceedings before the Vice Chancellor to obtain redress, when the local Board promised that the nuisance should be abated. It was very natural therefore that the Board of Health should wish to get rid of this the only security which the public had against them. Should the present Bill pass it would confirm every abuse which the people had so much struggled against. He should, therefore, press the Amendment of which he had given notice.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

MR. PALK said, that when the Government thought it their duty to bring forward a measure which interfered with property of every description—with property in land, in water, in canal shares, harbour shares, and with the administration of the local government of towns—they ought, at least, to bring it forward at a sufficiently early period to admit of the question receiving that due consideration which such important interests demanded. He was perfectly aware that hon. Gentlemen on the other (the Ministerial) side of the House had some very liberal notions of the rights of property which had never yet been acquiesced in by the House of Commons; and he trusted that, as long as the House of Commons existed, the rights of property would be maintained sacred, and that no interest would be suffered to be taken away in a morning sitting, at the close of the Session, by a Bill

which professed to be one thing, but which in reality was of a totally different description. When the Government brought forward an amended Bill, purporting to contain certain saving clauses, they should be saving clauses, and not enabling clauses. It was a most unfair way, he considered, to attempt to obtain power by bringing in such clauses, pretending to be saving clauses, but which in reality gave to the President of the Board of Health a control and a jurisdiction over property which had never yet been conceded by that House. The question of the powers of the Board of Health had on various occasions been brought forward, but it had always met with one result—defeat—because it grasped at a despotism which the House of Commons, he trusted, never would sanction. As far as he was personally concerned, he thought it might be better not to reject the measure altogether, but to permit the Bill to go into Committee with the understanding that all the clauses which gave to the Board of Health powers which they did not at present possess—all the saving clauses which were in reality enabling clauses—should be omitted, and that the Board should be continued for a limited period. If the House did not take that step, great evils might arise and much injury be done to local interests.

MR. H. G. LANGTON said, he must confess that when he went into the Select Committee on the Bill he was greatly surprised at finding the most popular part of it withdrawn, and that clauses were introduced which had met with great opposition; but as the right hon. Gentleman the President of the Board of Health had since withdrawn those clauses he should not oppose the Bill going into Committee. He had the honour to represent a very large population where the Public Health Bill was in operation (Bristol), and he thought it just to state that, under the management of the local Board, it had given general satisfaction.

MR. COWPER said, the hon. Gentleman who had moved the Amendment had gone at some length into particular clauses of the Bill, but as those clauses did not affect the principle of the Bill, he should not say more than that they formed part of the Bill submitted to the Select Committee, and that evidence had been heard both for and against them. Some of the clauses had been copied *verbatim* from the Bill which had been sanctioned by the Select Committee after every attention

had been paid to local and private interests, and it was generally understood that those clauses were assented to by the canal and other companies. He apprehended the proposition of the hon. Gentleman (Mr. Knight) to be that the House should not consider any Amendments of the Act of 1848. He was exceedingly surprised that a Motion to that effect should come from such a quarter. If the hon. Gentleman were an admirer of the Act of 1848 he could understand it, but the singular fact was that the hon. Gentleman particularly objected to that Act. The hon. Gentleman appeared to say that, as the House could not adopt the Bill of last year, therefore they ought not to adopt any lesser Bill. The hon. Gentleman appeared to be reviving the cry which was very powerfully raised some years ago in reference to the Reform Bill; and he seemed to say that he would have "the Bill, the whole Bill, and nothing but the Bill." But such a cry, however useful it might have been when originally raised, was very inappropriate now, because there was no possibility of getting the whole Bill in the course of the present Session. Hon. Members must be well aware of the impossibility, at that late period of the Session, of attempting to discuss and carry a Bill containing between 200 and 300 clauses. Then came the question—would they have the instalment which he (Mr. Cowper) now proposed, or would they postpone the whole subject till next year? He had endeavoured, but in vain, to bring the whole subject under discussion at an earlier period of the Session; and he therefore thought the best way of dealing with the matter would be to propose a Bill that should contain clauses which would amend the Bill of 1848 in its practical details, and which the local Boards said prevented them from carrying on their work efficiently. There were many ambiguities in the law which it was desirable to get rid of. Alterations were also required respecting the power of purchasing land, the establishing of gasworks, and other such practical matters. He thought therefore that it would be better to make those Amendments in the law, and then proceed next year to deal with the other and more important branch of the subject, namely, those organic changes which were deemed necessary in the constitution of the Board of Health—such as the mode of voting, the qualification of electors, and other machinery connected with the more

Mr. Cowper

theoretical portion of the subject. He really thought that by thus separating the practical details from the theoretical part of the Bill he was advancing the object which the hon. Gentleman himself wished to accomplish. He was not aware that any part of the present Bill would give rise to any serious difficulty. But if any of the clauses should appear to require much discussion, he was perfectly willing to postpone the consideration of them to another year. He hoped the House would not shut the door altogether against the only Amendments of the Act of 1848 which he was now able to propose. There were 209 towns in which local Boards of Health existed. They were under local representative government, and they wished the Act under which they ministered to the health of the inhabitants to be amended.

MR. HENLEY said, it was his belief, that the Act of 1848 was not very popular, and had not been very successful. That Act was referred last year to a Select Committee. After much discussion that Committee produced a Bill, dealing with most of the difficulties proposed to be dealt with by the present Bill, and with many others besides. For some reason, best known to himself, the right hon. Gentleman (Mr. Cowper) did not produce that Bill. He had given no reason why, except that it was more easy to take up a part of the subject than the whole. It would have been but fair on the part of the right hon. Gentleman, seeing that he had only taken a part of the Bill recommended by the Select Committee, if he had referred this limited Bill to another Committee, so that some reason might have been obtained why this small portion of the larger Bill should alone be submitted to the House. But the right hon. Gentleman said he wanted to clear up some doubtful points, make some Amendments, and supply some defects. But the right hon. Gentleman would not pretend to say that if the Bill now under consideration were allowed to pass there was the most remote chance, after the Board of Health should have obtained all the powers which the Bill would give them, of any of those grievances which the public now suffered under being attended to and redressed. That was the real question which was before the House. The right hon. Gentleman had got himself clear of light and water by withdrawing the clauses relating to the Water and Gas Companies; but that was, he supposed, because gas and water

interests were somehow always represented in that House. The right hon. Gentleman, however, had treated very lightly the fact, that in different places the local Boards of Health had created intolerable public nuisances by draining towns into the small streams running through the country, and thereby killing the fish, poisoning the people, and ruining manufacturers. The great sanitary improvement of the country had resulted in a vast system of what was called pipe drainage. This vast system discharged all the filth of the towns somewhere. In the metropolis it was discharged into the Thames; and the Metropolitan Board of Works were now engaged in the undertaking of cleansing the Thames. There were clauses in the Act of 1848 which afforded some protection against this system; and the people were becoming awake to the evils with which they were threatened, and were prepared to say that the Board of Health should not poison the health of the neighbourhood by polluting their water. But by a very short clause in the Bill now before the House, it was proposed to do away with all power on the part of a Court of Law to interfere, and thus the owners of property would be left without any means of protection. That was a sample of what the right hon. Gentleman called an amendment of the law. It was an amendment of the law with a vengeance, but was it a just amendment? It was also proposed to extend the power of borrowing over fifty instead of thirty years, the only effects of which would be to produce extravagance in the expenditure of the money, because it would not have to be repaid for a very long time. Every grievance that had been complained of in the old Bill, and the jobbing that was carried on under it, were left totally untouched. He hoped that the valuable time of the House would not be wasted in a long discussion upon a measure that would be of no use when carried. Everybody knew that the object of the Bill was only to pass certain miserable clauses for the satisfaction of those parties who went roaming about the country putting their hands into the tax-payers' pockets, and creating work and expensive jobs for their own benefit. The Bill would give those parties double taxing power, and for that reason and because the measure was utterly useless, he should oppose its going into Committee.

MR. BAINES said, his right hon. Friend the President of the Board of Health, had

consented to postpone any clauses to which objections of a serious nature were entertained; but there were portions of the Bill involving matters of great importance, as to which no doubt was entertained on either side, which it was desirable should be passed into a law. The first part of the Bill was to continue the General Board of Health. It was true that Board would exist to the 1st of July next, and to the end of the then next Session of Parliament; but his experience at the Poor Law Board convinced him that it was most important not to defer the renewal of an Act to the very last Session, because no one knew what would become of that Session. It might be cut short at the end of the next week after it met. That part of the Bill ought, therefore, to be passed. There were many other provisions also which would afford no matter for controversy in Committee.

MR. T. GREENE said, he would warn the House, that if it once allowed bit by bit legislation on the law in question, they would never have the law satisfactorily amended. There had not been the shadow of a reason assigned why the whole measure should not have been brought forward in the early part of the Session, so as to give the House sufficient time to consider all its provisions. If, however, the House confined itself to renewing the powers of the Board of Health for one Session he would not object to it.

MR. BARROW said, the House owed it to its own dignity to reject the Bill altogether. The Board of Health was limited in its duration by the Act of 1848. A Bill was brought in last year and submitted to a Select Committee. He (Mr. Barrow) had objected to certain clauses, which he was assured across the table should be abandoned. With the Bill which came from the Select Committee, however, it appeared the Government did not agree; and in the Bill laid on the table by the Government, the objectionable clauses which it had been promised should be abandoned were reintroduced into it. There was one clause, however, which was particularly objectionable, namely, that which gave to the temporary occupiers of property a right to tax the owners of that property for a period of fifty years, in a rate for the purposes of the Board of Health. The clause exempted the occupiers from payment. That clause, however, he was bound to say, was not in the amended Bill; but it showed the animus

had been paid to local and private interests, and it was generally understood that those clauses were assented to by the canal and other companies. He apprehended the proposition of the hon. Gentleman (Mr. Knight) to be that the House should not consider any Amendments of the Act of 1848. He was exceedingly surprised that a Motion to that effect should come from such a quarter. If the hon. Gentleman were an admirer of the Act of 1848 he could understand it, but the singular fact was that the hon. Gentleman particularly objected to that Act. The hon. Gentleman appeared to say that, as the House could not adopt the Bill of last year, therefore they ought not to adopt any lesser Bill. The hon. Gentleman appeared to be reviving the cry which was very powerfully raised some years ago in reference to the Reform Bill; and he seemed to say that he would have "the Bill, the whole Bill, and nothing but the Bill." But such a cry, however useful it might have been when originally raised, was very inappropriate now, because there was no possibility of getting the whole Bill in the course of the present Session. Hon. Members must be well aware of the impossibility, at that late period of the Session, of attempting to discuss and carry a Bill containing between 200 and 300 clauses. Then came the question—would they have the instalment which he (Mr. Cowper) now proposed, or would they postpone the whole subject till next year? He had endeavoured, but in vain, to bring the whole subject under discussion at an earlier period of the Session; and he therefore thought the best way of dealing with the matter would be to propose a Bill that should contain clauses which would amend the Bill of 1848 in its practical details, and which the local Boards said prevented them from carrying on their work efficiently. There were many ambiguities in the law which it was desirable to get rid of. Alterations were also required respecting the power of purchasing land, the establishing of gasworks, and other such practical matters. He thought therefore that it would be better to make those Amendments in the law, and then proceed next year to deal with the other and more important branch of the subject, namely, those organic changes which were deemed necessary in the constitution of the Board of Health—such as the mode of voting, the qualification of electors, and other machinery connected with the more

Mr. Cowper

theoretical portion of the subject. He really thought that by thus separating the practical details from the theoretical part of the Bill he was advancing the object which the hon. Gentleman himself wished to accomplish. He was not aware that any part of the present Bill would give rise to any serious difficulty. But if any of the clauses should appear to require much discussion, he was perfectly willing to postpone the consideration of them to another year. He hoped the House would not shut the door altogether against the only Amendments of the Act of 1848 which he was now able to propose. There were 209 towns in which local Boards of Health existed. They were under local representative government, and they wished the Act under which they ministered to the health of the inhabitants to be amended.

MR. HENLEY said, it was his belief, that the Act of 1848 was not very popular, and had not been very successful. That Act was referred last year to a Select Committee. After much discussion that Committee produced a Bill, dealing with most of the difficulties proposed to be dealt with by the present Bill, and with many others besides. For some reason, best known to himself, the right hon. Gentleman (Mr. Cowper) did not produce that Bill. He had given no reason why, except that it was more easy to take up a part of the subject than the whole. It would have been but fair on the part of the right hon. Gentleman, seeing that he had only taken a part of the Bill recommended by the Select Committee, if he had referred this limited Bill to another Committee, so that some reason might have been obtained why this small portion of the larger Bill should alone be submitted to the House. But the right hon. Gentleman said he wanted to clear up some doubtful points, make some Amendments, and supply some defects. But the right hon. Gentleman would not pretend to say that if the Bill now under consideration were allowed to pass there was the most remote chance, after the Board of Health should have obtained all the powers which the Bill would give them, of any of those grievances which the public now suffered under being attended to and redressed. That was the real question which was before the House. The right hon. Gentleman had got himself clear of light and water by withdrawing the clauses relating to the Water and Gas Companies; but that was, he supposed, because gas and water

interests were somehow always represented in that House. The right hon. Gentleman, however, had treated very lightly the fact, that in different places the local Boards of Health had created intolerable public nuisances by draining towns into the small streams running through the country, and thereby killing the fish, poisoning the people, and ruining manufacturers. The great sanitary improvement of the country had resulted in a vast system of what was called pipe drainage. This vast system discharged all the filth of the towns somewhere. In the metropolis it was discharged into the Thames; and the Metropolitan Board of Works were now engaged in the undertaking of cleansing the Thames. There were clauses in the Act of 1848 which afforded some protection against this system; and the people were becoming awake to the evils with which they were threatened, and were prepared to say that the Board of Health should not poison the health of the neighbourhood by polluting their water. But by a very short clause in the Bill now before the House, it was proposed to do away with all power on the part of a Court of Law to interfere, and thus the owners of property would be left without any means of protection. That was a sample of what the right hon. Gentleman called an amendment of the law. It was an amendment of the law with a vengeance, but was it a just amendment? It was also proposed to extend the power of borrowing over fifty instead of thirty years, the only effects of which would be to produce extravagance in the expenditure of the money, because it would not have to be repaid for a very long time. Every grievance that had been complained of in the old Bill, and the jobbing that was carried on under it, were left totally untouched. He hoped that the valuable time of the House would not be wasted in a long discussion upon a measure that would be of no use when carried. Everybody knew that the object of the Bill was only to pass certain miserable clauses for the satisfaction of those parties who went roaming about the country putting their hands into the tax-payers' pockets, and creating work and expensive jobs for their own benefit. The Bill would give those parties double taxing power, and for that reason and because the measure was utterly useless, he should oppose its going into Committee.

MR. BAINES said, his right hon. Friend the President of the Board of Health, had

consented to postpone any clauses to which objections of a serious nature were entertained; but there were portions of the Bill involving matters of great importance, as to which no doubt was entertained on either side, which it was desirable should be passed into a law. The first part of the Bill was to continue the General Board of Health. It was true that Board would exist to the 1st of July next, and to the end of the then next Session of Parliament; but his experience at the Poor Law Board convinced him that it was most important not to defer the renewal of an Act to the very last Session, because no one knew what would become of that Session. It might be cut short at the end of the next week after it met. That part of the Bill ought, therefore, to be passed. There were many other provisions also which would afford no matter for controversy in Committee.

MR. T. GREENE said, he would warn the House, that if it once allowed bit by bit legislation on the law in question, they would never have the law satisfactorily amended. There had not been the shadow of a reason assigned why the whole measure should not have been brought forward in the early part of the Session, so as to give the House sufficient time to consider all its provisions. If, however, the House confined itself to renewing the powers of the Board of Health for one Session he would not object to it.

MR. BARROW said, the House owed it to its own dignity to reject the Bill altogether. The Board of Health was limited in its duration by the Act of 1848. A Bill was brought in last year and submitted to a Select Committee. He (Mr. Barrow) had objected to certain clauses, which he was assured across the table should be abandoned. With the Bill which came from the Select Committee, however, it appeared the Government did not agree; and in the Bill laid on the table by the Government, the objectionable clauses which it had been promised should be abandoned were reintroduced into it. There was one clause, however, which was particularly objectionable, namely, that which gave to the temporary occupiers of property a right to tax the owners of that property for a period of fifty years, in a rate for the purposes of the Board of Health. The clause exempted the occupiers from payment. That clause, however, he was bound to say, was not in the amended Bill; but it showed the animus

of the promoters of the measure; and under the circumstances he could not vote for the Bill going into Committee, because he wished to force the Government to reconsider the entire subject by next Session. He must also complain that the Bill was not introduced to the House at an earlier period, so as to bring it to a public discussion, and enable the public to become acquainted with its provisions.

MR. T. DUNCOMBE said, he was much of the same opinion as the hon. Gentleman who had just sat down. He could not give his vote for the Bill, even on the ground laid down by the hon. Member opposite (Mr. T. Greene)—namely, that the Board of Health would expire next year. The right hon. Member for Leeds (Mr. Baines) had endeavoured to alarm the House by representing that some dire calamity would befall the country if the Board of Health were altogether to expire. Before, however, the House or the country felt any alarm upon the subject it would be well to inquire what that Board had done, what it had cost the country, and what it proposed to do. During the present Session, he had moved for a Return, in order to ascertain what the Board was about. Since 1848 the Act was applied to nearly 300 towns during the five years for which that Act was passed. The Act was then renewed for another year, and to the end of the next Session of Parliament. In 1853 the Act was applied by order of the General Board of Health to six towns, and by order of the Privy Council to three towns, making together nine towns; in 1854 and 1855 the Act was applied by order of the Board to thirteen towns, and by order of the Privy Council to six towns, making altogether twenty-eight towns from 1853 up to the present year; and the expenses incurred amounted to £36,000, being a very pretty sum to be dealt with for those towns. It was now proposed to continue the Board for three years longer. The last Bill did not propose to renew the Board for more than two years, one of which had already expired. He did not know whether there was any Member present who was what was called an administrative reformer. He did not see the hon. and learned Member for Sheffield (Mr. Roebuck). That hon. and learned Member was going to reform the Administrative Reform Association itself, he ought, therefore, on such an occasion as the present, to be here. He is going to set us all to rights, not only in Leadenhall Street, but

Mr. Barrow

in New Palace Yard, at Somerset House, at the Admiralty, at the Horse Guards, and at Downing Street. But if the hon. and learned Gentleman would come down to this neighbourhood he would find in a corner of a street a little hole called the Board of Health, and where he would discover comfortably ensconced a near relation of the Prime Minister, a brother of a Cabinet Minister, and the relative of another Cabinet Minister—all very snug berths for Ministerial patronage to bestow. No wonder Ministers want to continue the Board of Health. The hon. Member for Lancaster (Mr. T. Greene) says, "Continue the Board for another Session." Why, he would undertake to say that before the discussion closed the right hon. Gentleman below him (Mr. Cowper) would jump at the proposition and be anxious to accept the boon for another year. But if the chairman of the Administrative Reform Association would just call in at the Board of Health he would find those three Gentlemen he had named sitting there, and if he were to ask them what they were about, and say to them—"You cost the country a great deal, and we have a right to ask you what you are about?" he was certain the right hon. Gentleman the Member for Hertford would reply—"That is the great difficulty. We have nothing to do; we want to know what we are to do, and how we are to humbug and delude Parliament, in order to get it to continue the Board. We have one plan in our head; we are going to adopt the cowpox throughout the country, and we mean to superintend it. We had also another plan, which we tried to accomplish; we proposed that the President of the Board of Health should be President of the new council of medical men." But that Bill has all of a sudden dropped; so that one of their supports is gone. But there is one more chance, and what, perhaps, the House will ask, is that? Why, the Home Department proposes to transfer the administration of the Burial Act to the Board of Health—a very pretty sequel! First, you superintend the general health of the people; next, you promote vaccination; then you would preside over the Medical Board; and then, when the curtain drops, you come to the Burial Board—the last shot you have. He was against all the powers which the Bill proposes to confer. Let the people do the work themselves. He should oppose the Board on any terms. It has got one year to live;

he hoped it would be its last, and that we should never hear of it again.

Question put, "That the words proposed to be left out, stand part of the Question."

The House *divided*:—Ayes 61; Noes 73: Majority 12.

MR. COWPER said, as the decision had been adverse to him, he must fall back upon the suggestion made by the hon. Gentleman opposite, the Member for Lancaster, and he should therefore propose a continuance Bill for next year; his hon. Friend behind him (Mr. T. Duncombe) would then have the opportunity of again amusing the House with the proceedings of the Board of Health. He was himself much amused by the manner in which the hon. Gentleman stated the case, but he a little overstated it—for instance, a large portion of the money voted, was for the Medical Council. The only charge against the Board of Health was that they had a desire to do work, and that was not a heavy imputation.

Words *added*.

Main Question, as amended, put, and *agreed to*.

Committee *put off* for three Months.

THE COURT OF CHANCERY (IRELAND) (RECEIVERS) BILL.

Order for Committee read.

House in Committee.

Clause 1.

MR. WHITESIDE said, he wished to propose that a limit should be put to the power of appointing a receiver by enacting that no receiver should be appointed where the debt did not exceed £150 a year.

MR. HENLEY said, the mischief and misery that had been worked in Ireland through the receiver system could hardly be exaggerated, and he did not think the Bill was of a nature to overcome those evils. He would suggest, however, that a limit should be fixed below which no receiver should be appointed, not only as to the amount of the debt, but as to the amount of the rental of the estate on which the receivership was appointed.

MR. J. D. FITZGERALD said, he was willing to adopt the right hon. Gentleman's suggestion.

MR. NAPIER said, he thought £150 was the lowest amount that could be adopted.

MR. WHITESIDE said, that in many cases receivers were appointed over an estate for a debt of £20, the costs incurred

by such appointment being ten times that amount, while receivers were appointed in several instances also where the annual value of the estate was only £50. If the rental was limited to £100 a year, he (Mr. Whiteside) would accept the Amendment.

MR. M'MAHON said, that receivers had been the curse of Ireland, but the Amendment would compel the sale of estates, or of a portion of them, over which a receiver could not be appointed. The sooner the system of receivership was abolished, however, the better.

MR. DE VERE said, the receiver system in Ireland had been shown to be atrocious, and of benefit to no one but the receiver. The debtor lost his debt, the tenants lost their interests, and the owner lost his property by the deterioration of the land under that system. He was glad, therefore, to see the limitations proposed by the hon. and learned Member for Enniskillen, however indefensible on principle.

LORD NAAS said, he was very glad to hear that the House was going to place a limit upon the receiver system.

MR. HUGHES said, he thought that the limitation of the rental was more important than the limitation of the debt, and that in all cases where a petition for a receiver was presented, the Court ought, in order to prevent fraud and injury to creditors, to be satisfied that the property was applicable to the benefit of the party seeking the appointment. He should propose that the rental should be limited to £100 a year.

MR. J. D. FITZGERALD said, that he would adopt the sum of £150 of debt, but he thought the £150 rental was too high. Therefore he proposed to give the Court of Chancery a discretionary power to appoint a receiver without any limitation as to the amount of rental.

Amendment *withdrawn*.

Clause *agreed to*, as were the remaining clauses.

House resumed.

Bill *reported*, without amendment.

COURT OF APPEAL IN CHANCERY (IRELAND) BILL.

Order for Committee read.

House in Committee.

Clauses 1 and 2 *agreed to*.

Clause 3.

MR. WHITESIDE said, he objected to the clause, all but that part of it which proposed the appointment of a new Judge. The ex-Chancellor Blackburne, one of the

ablest men in Ireland, was receiving a pension of £4,000 a year, and he was doing nothing but amusing himself at the Privy Council. He (Mr. Whiteside) wished to obtain a pledge from the Government that this great lawyer should be the first Judge of the Court of Appeal, with his pension to count as a portion of his salary. He also objected to that portion of the clause which rendered the Judge of the Court removable at the pleasure of the Crown, thereby going back to the days of the Stuarts; and he objected likewise to the selection of Common Law Puisne Judges, which the clause proposed, to sit as Judges of Appeal in Chancery causes. Nor did he like the mode in which the salaries were proposed to be regulated, though it professed economy. The Judges were, in fact, to have £5,000 a year, the same salary proposed for the Deputy Speakers of the House of Lords. The Amendment he intended to propose was that, instead of confining the appointment of the other Judges of Appeal to the Puisne Judges of the Common Law Courts, the choice should be extended to the elder members of the Bar—say men of twenty years' standing.

MR. J. D. FITZGERALD said, that the clause had been framed in deference to the opinion of the majority of the Commission, to whom the subject had been referred. The clause had been printed last year, and had been introduced in the Report of the Commission of which ex-Chancellor Blackburne was one. Sir John Romilly and one of the Irish Chief Justices were also on that Commission; and he (Mr. FitzGerald) had adopted the recommendation on their authority, though it was rather contrary to his own opinion. Various propositions were brought before the Commission to create an Appeal Court from the Court of Chancery in Ireland: and it was pointed out that there were several Judges in Ireland from time to time available for the purpose of presiding over the Court. Ex-Chancellor Blackburne, however, was the party pointed at. But then it was suggested that that Judge might again be named Chancellor; and, therefore he, (Mr. FitzGerald) was cast back upon the Common Law bench and the Bar for a selection. The Commission had recommended the selection of the additional Judge from the Common Law department. The Judges were appointed during Her Majesty's pleasure, because the creation of the Court was an experiment, and it was not, therefore, known, how it would act. Besides, the

Mr. Whiteside

Judges of the Court were only in the position of the Lord Chancellor in that respect who was removeable at Her Majesty's pleasure. He was, however, willing to adopt the Amendment of the hon. and learned Member for Enniskillen (Mr. Whiteside).

MR. HENLEY said, he did not understand that the Judges of the Common Law Court taken for the Appeal Court were still to remain Judges of the Common Law Court after their appointment to the Court of Appeal.

MR. NAPIER said, he thought the range of selection for Judges of the Court of Appeal should be perfectly free, and that any qualified person might be selected. It was like casting a stigma on the Bar to designate a particular person. There was no man who had a higher character than ex-Chancellor Blackburne; but the omission of the Judge of the Prerogative Court in Ireland from the Bill, though mentioned in a former Bill, showed that the wisdom of leaving the selection open was admitted by the Government.

MR. J. D. FITZGERALD said, he quite agreed with the modification suggested by the right hon. and learned Gentleman, and would adopt it in the Bill.

Clause amended *agreed to*, as were the remaining clauses.

House resumed.

Bill *reported*, as amended.

WEST INDIES GEOLOGICAL SURVEY— QUESTION.

MR. J. C. EWART said, he would beg to ask the right hon. Baronet the Secretary for the Colonies when the geological survey, now understood to be making, of the West India islands, would probably commence in Jamaica?

MR. LABOUCHERE said, in reply, that some time ago, on the application of the colonists, Government agreed to pay the salary of a scientific person to survey and ascertain the mineral resources of those colonies, on the understanding that the colonies were to pay all the other expenses of the survey, and that the colonies were to have the services of the surveyor in the order in which they applied for those services. Under that arrangement, an eminent scientific person had been appointed by Sir Roderick Murchison, at the request of the Government. The two islands which had made applications were Trinidad and Jamaica, and under the arrangement agreed to the survey of Trinidad had been commenced and was now

in progress. He had given instructions that the survey should not be a complete one for scientific purposes, but only such a one as would ascertain in a general way the mineral resources of those islands, and therefore there was a hope that in a short time the survey of Jamaica would be commenced. If, however, the Government and Legislatures of that island were desirous of an immediate survey, the Government would have no objection to appoint another surveyor on the advice of Sir Roderick Murchison, but in that case the colony must pay both salary and expenses.

APPELLATE JURISDICTION BILL.

On the Motion that the House at its rising do adjourn till to-morrow, at Three o'clock,

LORD JOHN RUSSELL said, he observed in the Orders of the Day the following:—"Appellate Jurisdiction (House of Lords).—Salaries and Retiring Pensions.—Committee thereupon." It was with great surprise that he had seen that notice placed on the Orders of the Day, after the discussion which had taken place on the subject the previous night, which had shown that a great portion of the House were opposed to the measure. He trusted that, although his right hon. Friend the Chancellor of the Exchequer had placed the Order on the paper, it was not his intention to proceed with a measure of which no notice had been given, and which it was impossible to discuss fairly under the circumstances.

THE CHANCELLOR OF THE EXCHEQUER said, his noble Friend was aware that it was impossible to introduce a clause into a Bill coming from the Lords, to authorise the payment of salaries, unless there was a previous Resolution in Committee. That Resolution would not fix the amount of the salary, but merely give power to introduce a clause which would afterwards be discussed in a Committee of the House. He hoped, therefore, that no opposition would be offered to the Resolution.

MR. MONTAGU CHAMBERS said, he hoped that the House would not agree to the proposed Resolution, and was proceeding to discuss the question, when

MR. SPEAKER intimated that the hon. and learned Member could not make any observations upon the subject until the Order was before the House.

MR. DISRAELI said, he understood the Committee was to be taken on Thursday.

SIR GEORGE GREY: Precisely so; and it is to enable the House to go into Committee that we propose to take the Resolution to-night.

MR. CARDWELL said, he was apprehensive that if they went into Committee that night, they would bind themselves to the maximum salary to be paid.

THE CHANCELLOR OF THE EXCHEQUER said, he must beg to explain that the Resolution would only be a general one, and would not fix any specific amount.

NATIONAL GALLERY.

VISCOUNT DRUMLANRIG *brought up* the answer from The QUEEN to the Address of the House.

"I HAVE received your Address, praying that a Royal Commission may issue, to determine the Site of the new National Gallery, and to report on the desirableness of combining with it the Fine Art and Archæological Collections of the British Museum:

"AND, having taken the subject into consideration, I have directed that a Commission shall issue for the purposes which you have requested."

Motion for the adjournment of the House at its rising *agreed to*.

NAVAL OFFICERS.

CAPTAIN SCOBELL said, in submitting the Motion of which he had given notice relative to the disadvantageous position of certain officers in the navy, he should be very glad if the Admiralty would take the matter out of his hands, and save him the trouble of laying it before the House, for none could be more deserving of their consideration than the officers whose cause he was about to plead. He considered that the case of these meritorious men was a peculiarly hard one, and he hoped before he sat down to convince the House that it was one which demanded immediate redress. They were about to do honour to-morrow to brave men who had fought the battles of their country for two years, but the men whose case he wished to bring before the House had fought through a twenty years' war. All of those persons had been wounded several times—some had lost legs, some arms, and others the sight of their eyes. He would not indulge in any declamation on the subject, but

confine himself to the facts, and he trusted, if any official reply was made to him, that the Government would do the same, and show that there were good and substantial reasons for refusing the request made by those officers who claimed, and he thought justly claimed, to be placed in the same position as the governor, lieutenant-governor, and chaplains of the hospital, and to receive their half-pay in addition to their residence in the hospital. It might be taken as a general rule that none but poor men would take the benefit of Greenwich Hospital. Many of them had large families, too, and it was a great consideration to them to get a residence free. They had to pay rates and taxes, however, and they had duties to perform which put them to a certain amount of expense in uniforms and the like. Those officers, eighteen in number, addressed a memorial to the Admiralty, praying for their half-pay, in the middle of last year, and to that the Admiralty replied that they had no power to grant their request. There appeared at that time to be some idea at the Admiralty that there was an Order in Council which did not allow of half-pay being given to these officers; but that was found to be a mistake. The officers memorialised again in January, and then the answer given was that it was not deemed advisable to comply with their prayer. Acting on his (Captain Scobell's) advice they memorialised again about six weeks ago, that time through their Governor, who himself backed their request by a letter to the Admiralty. To this memorial they received a very cold reply, to the effect that the Admiralty "could not comply with their request." Every step for securing justice had been taken in vain, and they now came to that House as a final Court of Appeal. The Governor and Lieutenant-governor had, as he had previously stated, their half-pay in addition to residences and large salaries. The chaplains had also their half-pay in addition to their salaries. The officers not receiving half-pay had been in active service from forty to sixty years, when the pay was less by fifty per cent. than it was now, and it was exceedingly hard that having, simply for the advantage of a residence in the hospital, given up their chances of promotion, that such an exceptional mode of dealing should be applied to them. He would read some documents which bore on the case of these officers. He would not, however, read

Captain Scobell

the memorial of the officers, though some parts were very strong, and it was signed by the eighteen officers who conceived they were the subjects of the hardships complained of. According to a return, moved for by Mr. Hume, in 1854, the Governor of Greenwich Hospital got £2,266, including half-pay, and the Lieutenant Governor, £1,256 a year, including half-pay. The captains, including all emoluments, got £456; the commanders, £353; the eight lieutenants, £275; the masters, £245; but the two chaplains, who had not served for fifty or sixty years, and had not been wounded and so cut to pieces, £500 each; and the surgeon £650. If those arrangements had been intentional they would have been most disgraceful, but he believed that no such bad intention existed. The officers at Greenwich both above and below these had their half-pay, and it was but fair that these officers should be put on an equal footing with their superiors and inferiors. He had in his hand an account showing the services of each of these men. Of the four captains one was eighty-four years of age, and had served sixty-seven years; another, seventy-one years of age, had served fifty-eight years; another, seventy-two years of age, had served fifty-eight years; and the last and youngest, fifty-eight years of age, had served forty-seven years. The result of the account was that the eighteen men had, in the aggregate, served 1,000, or an average of fifty-five years each. They had among them forty-two wounds, including losses of legs, arms, and eyes; and had received thirty medals and clasps. The average period during which they enjoyed the scanty advantages of Greenwich was but nine years. In some cases men had died so poor that their widows had not been able to administer to their wills, or subscriptions had to be raised for the payment of debts which they had contracted in order to furnish their humble dwellings. They were all men with families, having children to educate; and they had not the means of showing to each other the common courtesies of life. Now, if the First Lord of the Admiralty doubted that statement, let him go and dine with one of them, and judge for himself. The sum which would be required to give those men their half-pay was not so much as the salary of the First Lord of the Admiralty. The right hon. Baronet (Sir C. Wood) may be an excellent First Lord, but he (Captain Scobell) did not see why thou-

sands should be lavished on those who did duty at Whitehall, while those who had done their duty and had still to discharge duties at Greenwich were neglected. If it should be said that those gentlemen, when they went to Greenwich, knew what their emoluments would be, he would reply that during the time that the present First Lord of the Admiralty was President of the Board of Control, his salary was increased by about £1,000 a year. The memorial of these officers having been referred to the Commissioners of Greenwich Hospital, they said, in a letter to the Admiralty, that as the funds of the hospital were not affected, they had no opinion to offer, but stated, at the same time, their conviction of the justice of the claim and also of the value of the boon to the memorialists. The Lieutenant Governor had also written a letter in which he recommended that this small addition should be made to the pittance of these officers. Last year his hon. and gallant Friend the Member for Christchurch (Admiral Walcott) brought forward the case of Captain Dickinson. That officer came up to him (Captain Scobell) in the lobby, and said that if the House refused his request it would be the death of him. The Motion was lost by a minority of one, and within a month the gallant captain was dead. There were civil service clerks, some of them connected with the Admiralty, who had £700, £800, or £1,000, a year retirement. What business had they to have more than these old men? Was that the way in which warriors—in which men who had fought and bled for their country, were to be treated? Many public situations were held by naval officers who received half-pay. It was received by Lords of the Admiralty being naval captains, by the Controller of the coastguard, by the Deputy Controller, by the Usher of the Black Rod, by the two Commissioners of Greenwich Hospital, by the captains, commanders, and masters serving under the Colonial Land and Emigration Commissioners, by the naval officers serving under the Board of Trade, and by those employed in the Customs. Captain Drew, the storekeeper at the Cape of Good Hope also obtained half-pay. Yet none of those gentlemen had nearly so strong a claim as the class of officers whose cause he was advocating. Their case was one of such hardship that he entreated the noble Lord at the head of a Government which called itself "Libe-

ral" to do justice to these aged and meritorious officers. Coming next to the old commanders and lieutenants in the navy, their position was certainly a most extraordinary one. He had in his hand a list of retired captains numbering 100, to whom had been lately added about 144 more. Before being placed on that list they all received 10s. per day, and now 10s. 6d. was given to them. The first 100 of these officers, none of whom had served less than fifty years, were clearly entitled to rank with colonels in the army, each of whom received 14s. 6d. per day if in the infantry, and 15s. 6d. if in the cavalry. He would ask why was there that disparity of remuneration in favour of the army and against the navy? The fact was that the former service was more effectually represented in Parliament, and if such a grievance as he was describing existed in the army it would be rung in the ears of the House—and very properly so—until it was redressed. But, happening in the navy, the thing was not exposed; although it could not be supposed that the country begrudged fair and equal remuneration to the officers of both services, rank for rank. But what he had stated was not all. By the warrant of last year £60,000 per annum was apportioned among officers of the army to induce them to retire on full pay; while not a single man in the navy could retire on full pay. It was manifest, then, that the naval officers were grievously oppressed. The old commanders were in this position:—there were 551 on the active list, and of these 342 efficient men were unemployed. There were ninety-seven reserve commanders, who had all served upwards of forty years and been decorated with medals, now receiving 7s. per day—an allowance far below that paid to a major in the army, of corresponding rank. 100 retired commanders only received 8s. 6d. per day, being 2s. 6d. less than a major; while another list of retired commanders, 246 in number, only obtained 7s. The old naval lieutenants were not better off—indeed, the lower they descended in rank the greater they would find the hardship. Only thirteen out of between 600 and 700 retired lieutenants got 7s.; 150 of them got 6s.; and the remainder, though many had been wounded, and wore several medals on their breasts, got but 5s. That was the reward given to men who had *bona fide* the same rank as captains of marines and captains in the army,

whose allowance was 7*s.* per day. He had calculated the service of twenty modern lieutenants, with such names as Rowley, Balfour, and the like, and found that when put together it only amounted to seventy-four years; while the service of the same number of old officers of corresponding rank amounted in the aggregate to 700 years. The latter twenty bore such plebeian names as Smith, Thompson, White, and Johnson, and were men who, of course, never got on, but were left half-starving. The twenty men who had been so rapidly advanced had only three medals among them; while the men who had been kept back had almost all medals a piece. Now, that was an illustration of the treatment received by the navy; and if the House, now that it had been made acquainted with the system pursued, did not see that it was speedily amended, it would be responsible for all the oppression which that system inflicted. The question was one wholly unconnected with party considerations, and might be impartially and dispassionately dealt with. If his Motion were not favourably entertained by the First Lord of the Admiralty, he should feel it his duty to divide the House. It was not enough for him to expose the injustice done to deserving officers; he must take the opinion of the House whether that injustice should be suffered to continue. He was actuated by no personal feeling, although his own name was on one of the lists. He had been kept on half-pay much against his own wish, and although he had used every exertion in his power to get afloat, he had not sufficient interest to accomplish his object. If he had had nothing to depend upon but the pittance he received as half-pay, he could not have worn a gentleman's coat on his back. He now committed the case of these old neglected officers to the decision of the House of Commons. The hon. and gallant Officer concluded by moving that the disadvantageous position of the captains, commanders, lieutenants, and masters of the Royal Hospital at Greenwich, and other officers of Her Majesty's navy, is worthy of the early and favourable consideration of the Board of Admiralty.

SIR GEORGE PECHÉLL, in seconding the Motion, said, that his hon. and gallant Friend the Member for Bath had made an appeal to the First Lord of the Admiralty on behalf of the officers to whose case he had called attention; but the person upon whose heart it was necessary to produce

Captain Scobell

an impression was the Chancellor of the Exchequer, who exercised control not only over the Board of Admiralty, but over all other boards. He (Sir G. Pechell) might remind the House that, although officers who were placed in the Royal Hospital at Greenwich, as a reward for their services, were deprived of half-pay, officers who held civil appointments were allowed to receive half-pay. For a series of years the naval Lords of the Admiralty, whose salaries were £1,000 a year, did not receive half-pay; but a very cunning and clever Secretary to the Admiralty found out an Act of Parliament, under the provisions of which the Lords of the Admiralty might receive their half-pay; and it was speedily arranged that they should not only enjoy half-pay for the future, but that they should receive the back-pay of which they had been deprived. He hoped the case of the officers to whom his hon. and gallant Friend's Motion referred would be taken into consideration by the Government. He (Sir G. Pechell) had brought the subject under the notice of the House on several occasions some years ago, and he had suggested that the amount received for the conveyance of bullion in Her Majesty's ships from South American ports, amounting to some £50,000, or £60,000, or £70,000 a year, might be applied to meet the claims of those officers; but he could never induce the First Lord of the Admiralty to turn his attention to the matter.

Motion made, and Question proposed—

"That, in the opinion of this House, the disadvantageous position of the Captains, Commanders, Lieutenants, and Masters, of the Royal Hospital at Greenwich, and of the Retired Captains under the Orders in Council of 1840, 1851, and 1856, and of the senior Commanders and Lieutenants of Her Majesty's Navy, is worthy of the early and favourable consideration of the Board of Admiralty."

ADMIRAL WALCOTT said, he had thought it his duty, when the gallant officer (Captain Scobell) placed his Motion on the paper, to go to Greenwich Hospital for the purpose of procuring the best information in his power on the subject. He then addressed himself to the Governor, Sir James Gordon, one of the most distinguished Admirals in the service, who, with a singleness of mind and sincerity of heart and purpose that did him the highest honour (characteristics which had endorsed him to his profession), freely communicated to him his own sentiments, and made him acquainted, as far as

lay in his power, with all that he desired to know. In making one or two observations, he should set out with stating that the officers of Greenwich Hospital were paid out of the funds of the hospital, and received nothing from the Government; that in the year 1812 the salaries of the officers were arranged by the authorities of the hospital, and from that year up to 1829 the half-pay of those officers was paid into the Exchequer, the nomination of those officers being in the same year transferred from the hospital to the Admiralty. From that time to this he (Admiral Walcott) could gain no information as to what had become of this half-pay; but this much was certain, that it was not received by those officers. He contended that half-pay was given for good and meritorious services performed, and not in anticipation of future services, provided only, if called upon, officers were capable of service; in this case these officers were deterred from ever entering on actual service by an Order in Council of January, 1856, and therefore the Admiralty was not justified in withholding from them the half-pay to which they were justly entitled. The Governor of Greenwich Hospital told him that these officers obtained their nomination at a very advanced period of life for wounds received, or for gallant service. They had a house given them, but no furniture, and in order to furnish it they were generally obliged to go to their agents and borrow money. If they did not live sufficiently long to repay the agents, the consequence was, the furniture was sold, and their families left in a state of great distress. Because the funds of the hospital provided the salaries of the officers of the department, the existence of such a fund should not be considered a bar to their half-pay. On what plea did the Governor and Lieutenant Governor of the hospital receive their half-pay, when, as the Governor himself told him, they had no claim to it which those officers did not possess? It must not be supposed they had no duties to perform, as they were placed over some hundreds of old men, who require a great deal of care and attention. He would not go into any invidious comparisons of the difference of pay received by officers in the two services; but he would remind the House that the surest evidence of the decline of a nation was its neglect of those who had fought its battles in the hour of need, who with the promptitude of youth devoted their lives to the

service of their country, and redeemed that pledge by the gallantry of manhood; to them assuredly is due all becoming testimony, and which ought to be dealt out in a free spirit and with an ungrudging hand; but if those in power will permit meritorious services to pass unrewarded, and favour to rule dominant in the bestowal of honours, promotions, and employment, then those who have a voice there will lift it against the decision of unreasoning judgment, for fear the absence of a decoration should be considered the credential of honour, and the insignia of distinction become the by-word of the brave. He earnestly implored the First Lord of the Admiralty to take the Motion of the hon. and gallant officer opposite into his favourable consideration, and he would only add that no circumstance of his life would give him more gratification than that he had raised his voice in the House of Commons in the support of the claims of those poor and meritorious officers.

SIR CHARLES WOOD said, he did not know whether it was owing to any change which had taken place in the constitution of Parliament, but when he first knew the House of Commons it exercised very considerable influence in checking the disposition of Governments to what was deemed unnecessary expenditure. That course, however, was now very much reversed, and in order to prevent an increase of expenditure, the Government felt themselves obliged to check Motions made in the House, from time to time, in favour of the claims of particular classes of officers or other public servants, and those often made entirely without reference to claims of others. The hon. and gallant Member for Bath, who introduced the subject, stated that officers of the navy of the same rank with those in the army did not receive the same amount of half-pay, but the hon. and gallant Gentleman apparently forgot that the officers of the army purchased their commissions, and that a great part of their half-pay must be regarded in the light of interest on the purchase-money of those commissions. It would doubtless be remembered that on one occasion an hon. Gentleman brought forward the case of the officers of marines as one of great hardship. He (Sir C. Wood) represented at the time that they were really better paid than the officers of the navy of corresponding rank, but the House was of a different opinion, and it was carried that every officer of marines ought to have a

higher rate of pay; and now his hon. and gallant Friend (Captain Scobell) brought forward the hardship of the case of the navy officers as compared with the marines in their turn. In this way the House of Commons was every now and then taking up individual cases, one at a time, without taking a general view of the different branches of the service. With regard to the first class of officers whose case his hon. and gallant Friend had brought before the House, the captains and commanders of Greenwich Hospital, he could only say that he was quite disposed to agree in the well-merited eulogium which had been paid them. The Governor of that hospital was one of the most distinguished officers in the service) and had suffered much in the discharge of his duty to his country) and the Lieutenant Governor and other officers had served with great distinction. Sir James Gordon had received one of the few prizes in the naval service, and he should be sorry to see his emoluments reduced. But the hon. and gallant Member had forgotten the difference between the pay of active service and the retirement allowance for past service. The chaplains and surgeons of Greenwich Hospital were actively employed in the duties of their profession. The surgeon was not appointed for his past services, but for his surgical skill, and it was not quite fair, therefore, to compare the salaries and emoluments given to such officers of Greenwich Hospital with the pay for past services. The surgeon might not have been wounded or shed his blood in defence of his country, but he was paid for performing active surgical duty in the hospital. With regard to the naval Lords of the Admiralty, an Act of Parliament was passed twenty-four years ago regulating their salaries. It was then considered that the salaries they received as Lords of the Admiralty were low in proportion to their duties and position, and it was provided that they should receive their half-pay in addition to that salary. His hon. and gallant Friend appeared to be labouring under some misapprehension with regard to the amount received by some of the officers to whom he had referred. When he (Sir C. Wood) was told that those appointments were not worth having, he did not find that that was the view taken of them by the naval profession, by whom they were considered not at all bad places, and who were most anxious to obtain them. The hon. and gallant officer said that the officers of Greenwich Hospital

Sir Charles Wood

were inadequately remunerated. Their duties, however, were of a light character, and if the hon. and gallant Member compared their half-pay and allowances with the half-pay of officers of much higher rank, he would find that they were not so inadequately remunerated as he seemed to think. The half-pay of a vice admiral was £593 a year. The captains in Greenwich Hospital were found in apartments. It was difficult to estimate the value of the apartments, but one of the captains was not provided with apartments, and he received £2 12s. 6d. per week in lieu thereof. Putting that estimate, then, upon the value of the apartments, the emoluments of the captains in Greenwich Hospital were £595 per annum, being £2 more than the half-pay of a vice-admiral, an officer of much higher grade in the service. He therefore could not honestly say that he thought that a very inadequate payment for a naval officer of the rank of captain. The half-pay of a rear-admiral was £456 a year. The allowance of a commander of Greenwich Hospital might be estimated at £492, being £36 more than the half-pay of a rear-admiral. The lieutenants of Greenwich Hospital received an allowance of £417, taking apartments into account, which was more than the half-pay of a captain, which was only £365 a year. He could not say, therefore, that such a retired allowance was insufficient for officers of their rank. His hon. and gallant Friend had complained of a letter in which the Admiralty stated that it was not in their power to give these officers half-pay in addition to their allowances. That was quite true, because the Admiralty could not give them half-pay without the sanction of the Treasury. When the Admiralty were again applied to they replied, "We cannot do it." He saw nothing discourteous in that reply, which was simply true. In considering the question the House were bound to regard it in relation to the general question of allowing half-pay to be received with other emoluments derived from the public. The hon. and gallant Member for Christchurch (Admiral Walcott) had declared that half-pay was a reward for past services, and not a retainer for future services, [Admiral WALCOTT: It is a retainer, I admit.] Then it was not simply a reward for past services, as the hon. and gallant Admiral seemed to think. [Admiral WALCOTT: That is still my belief.] He could assure the hon. and gallant

Admiral that he was quite mistaken; it was both a reward for past and a retainer for future services. It was in the power of the Treasury to allow half-pay, with other emoluments; but it was generally withheld when other emoluments of considerable amount were enjoyed. Considering the amount which the officers of Greenwich Hospital received one way or the other, he did not think the decision not to allow them half-pay so exceedingly hard, and if they were allowed it, a large class of officers in the country, who were receiving other emoluments, would also press their claims upon the Government. With regard to the old commanders and lieutenants, Government had, in the course of the present year, asked for an increased Vote of £11,000 a year, for the purpose of making additions to their half-pay. A considerable number of commanders had been given the rank of captains, with the lowest half-pay of captains; those who had not obtained that advantage would become entitled to it by seniority, as vacancies occurred; and on looking through the list, he could not see any great number not included in that number, who had any strong claims on the score of service. With regard to the old lieutenants, he could only repeat what he had said on a former occasion. Promotions were made largely in the years 1814, 1815, and 1816, and from the reduction of force consequent on the peace and it was perfectly impossible that any great number could afterwards be employed. The consequence was, that very few had seen much sea-service. Many of them had received half-pay for forty years; they now received a higher rate of half-pay, and a number had been promoted, the number of commanders having last year been increased. He quite agreed with his hon. and gallant Friend the Member for Bath, that it was unjust not to reward officers who had devoted themselves to the service of the country, and he did not believe Parliament would begrudge the application of public money to officers who had distinguished themselves; but he must say that a great number of lieutenants who had served in the late war had seen far longer sea-service than many of the old lieutenants, and there was no reason, in his opinion, why the House should vote a larger sum to the latter officers. He believed he had now replied to all the points touched upon by his hon. and gallant Friend, and he trusted that he had satis-

factorily explained to the House why he thought there was no ground for giving still larger boons than had already been extended to those officers.

SIR CHARLES NAPIER said, he was sorry that the First Lord of the Admiralty had mixed up the captains' claims with those of the commanders and lieutenants. He quite agreed that a great deal had been done for the commanders and lieutenants, but he thought the officers of Greenwich Hospital were not treated with the liberality which the Admiralty ought to exhibit. The naval Lords of the Admiralty received half-pay, in addition to their salary; and if the united amount of salary and half-pay was only proper remuneration for the naval Lords, he should like to know how it was that the lay Lords did not receive £600 or £700 a year additional salary, to make their remuneration equal? All the members of the Board of Admiralty were in the same boat, and they ought not to make fish of one and flesh of the other. He did not think the comparison between Greenwich captains and vice-admirals a fair one, because the vice-admiral and the rear-admiral were both on the active list, while the Greenwich captains had totally retired from the service. The Greenwich captains could get no further, and whether provisions were dearer or cheaper their pay was exactly the same. They were in a most pitiable condition. They had formerly been forced to live, perhaps, in a small cottage in the country. They came up to Greenwich to good and large apartments. They were obliged to borrow money of their agents to fit out the apartments, and when they were removed by the hand of Providence their widows and families were left in a very precarious position. That was the case of nine out of ten of all the Greenwich officers, and he could not understand why they should not receive the same advantage as other naval officers holding different situations in the country. For instance, the Usher of the Black Rod received a large salary, and he also received his half-pay. He considered that the Board of Admiralty had behaved well in giving to wounded officers appointments to Greenwich Hospital, but at the same time he did not think those appointments were sufficient rewards. While the Governor, the Lieutenant Governor, and the Commissioners of Greenwich Hospital enjoyed their half-pay, he (Sir C. Napier) could see no reason for a distinction between them and the officers of lower

grade, except, perhaps, that the higher officers had more influence and interest. The House had perceived the justice of representations made of the case of Sir James Gordon, whose salary as Governor was only equal to his pension and half-pay, leaving his house as the only benefit he derived from his appointment in Greenwich Hospital. In that case the First Lord of the Admiralty had no difficulty in persuading the Treasury to allow the increased emoluments, and it was to be hoped, after the discussion of that evening, the present First Lord would see the propriety of allowing the junior officers of the hospital to receive their half-pay.

MR. MONTAGU CHAMBERS said, he should be extremely sorry that a question relating to the English navy, of which they were all so naturally proud, should be summarily disposed of. He considered, in point of fact, that the entire of the money which was devoted to the pay of the officers connected with Greenwich Hospital was not voted by the country, but was defrayed out of private funds belonging to the institution itself. That being the case, he should wish to know if the nation was entitled to save the half-pay of those officers, for such, he contended, would be the result of refusing to grant them that half-pay, upon the ground that they received emoluments from other sources.

CAPTAIN SCOBELL, in reply, said, he was ashamed of the cold and callous feeling exhibited by the First Lord of the Admiralty for the position of those gallant officers. He (Captain Scobell) must declare that he would rather be what he was—an humble captain in the service—than the First Lord of the Admiralty with such opinions. The fact was, as the right hon. Gentleman knew, that the sweets of the service were given to political and family favourites, and that coldness, neglect, and insult were the only portion of the class on whose behalf the Motion had been made.

SIR MAURICE BERKELEY said, that the hon. and gallant Gentleman was not justified in saying that his right hon. Friend the First Lord of the Admiralty had treated the case of those officers with coldness. His right hon. Friend was as anxious as any other man to see naval officers properly rewarded, and to give them an increase of income in their old age; but he had a public duty to perform, and that public duty obliged him to look at the subject, not in an isolated point of

Sir Charles Napier

view, but as a whole. It was not correct to say that those situations were not coveted, because there always were several applications for each one that became vacant. The present Governor and Lieutenant Governor were gentlemen who had risen by merit alone, and were not indebted for their position to those adventitious circumstances to which the hon. and gallant officer referred. He would again repeat, that he was just as anxious as any Member in the House for the good of the navy, but he must say that he did not think that the present claim was well founded.

Question put.

The House *divided*:—Ayes 31; Noes 38: Majority 7.

LIEUTENANT COLONELS IN THE ARMY.

COLONEL LINDSAY said, he rose to move that an humble Address be presented to her Majesty, praying that she would be graciously pleased to take into consideration the injury inflicted on those lieutenant colonels of the army who attained that rank before the 20th day of June, 1854, and who had been superseded by the retrospective action of the warrant of the 6th day of October, 1854. Previous to the warrant of the 6th of October, the principal if not the sole object was to obtain the rank of lieutenant colonel, from which all the higher ranks in the army sprang. Up to that rank all the grades of the army were purchasable, but beyond that they were obtained by brevet. The peculiar feature of the old system was this, that once an officer became lieutenant colonel, from that no officer could pass over his head to the higher ranks unless for the special cases of distinguished services or aide-de-camp to the Queen.

Notice taken, that Forty Members were not present; House counted; and Forty Members not being present,

The House was adjourned at Nine o'clock.

HOUSE OF LORDS.

Wednesday, July 9, 1856.

MINUTE.] PUBLIC BILL.—1st Copyholds Acts Amendment.

Their Lordships having gone through the business on the Paper,
House adjourned till To-morrow.

HOUSE OF COMMONS,

Wednesday, July 9, 1856.

MINUTES.] PUBLIC BILLS.—1° Indemnity; Episcopal and Capitular Estates Continuance; General Board of Health Continuance; Customs (No. 2).

2° Unlawful Oaths (Ireland); Railways Act (Ireland), 1851, Continuance; Turnpike Acts Continuance (Ireland); Consolidation Fund (Appropriation); Criminal Justice; Militia Pay.

CIVIL SERVICE.

VISCOUNT GODERICH said, he would now beg to move that the House resolve itself into Committee on this subject.

Order for Committee thereupon read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

THE CHANCELLOR OF THE EXCHEQUER said, that previous to the right hon. Gentleman leaving the chair, he wished to give such an explanation in reference to the question as might possibly induce his noble Friend not to proceed with his Motion for going into Committee. It would be in the recollection of the House, that at an early period of the Session his noble Friend moved a Resolution with the view of making more general the examination by open competition for admission into the civil service. A discussion took place, followed by a division, after which the question had been postponed until the present time. Since that discussion took place the system then in force had continued in operation, and a considerable additional number of examinations and appointments had taken place. He would state to the House the number of examinations and appointments since the existing system was introduced in May, 1855, up to the 30th of June in the present year. The number of candidates nominated was 2,390, and of these 1,055 were examined in London, and 693 in the provinces, making a total of 1,748 persons examined. Certificates were granted to 564 persons on the London examinations, to 445 persons on the provincial examinations, and to sixty one persons on the reports of heads of departments, making a total of 1,070 persons to whom certificates were granted. The number of certificates refused on the London examinations was 318, and on the provincial 238; making a total of 556 certificates refused against 1,070 granted. Therefore the result was as nearly as possible that two persons succeeded in obtaining

certificates to one who failed. That had been the practical result of the existing system up to the present time, and the House would see that it had the effect of separating the worthy from the unworthy candidates. His noble Friend proposed to carry to a still greater extent the system of open examinations, so that whenever a vacancy occurred in a public office any persons might offer themselves as candidates without any qualification beyond that which appeared on the examination, and if they happened to be the best they should be accepted. The plan at present adopted in reference to the superior departments of the Government, such as those of the Secretaries of State and the Treasury, was that, whenever a vacancy occurred, several candidates were selected by the head of the department and subjected to competitive examination to determine who was the fittest person to fill the vacancy. Now, the head of a department, though holding office by the precarious tenure of political power, therefore being only temporarily in his department, yet always had a strong interest in obtaining efficient servants for the conduct of the affairs of the department. He was, moreover, surrounded by permanent officers, who, by their advice, confirmed him in that feeling. Any gentleman acquainted with the spirit which now animated the heads of the public departments would be satisfied that, in reference to the appointment to vacancies, it would be the study of those heads to present such a number of candidates as would enable the Civil Service Commissioners to select persons fully adequate to discharge the duties they would be called on to perform. The House, therefore, would see that the system now introduced offered satisfactory securities for proper appointments. He would now take the case of those civil servants who performed functions the least responsible and important. There is a numerous body of these persons in the Customs, the Coast, the Excise, and the Post Office. The House would understand that any system of competitive literary examination was wholly unsuited to civil servants of that class. To discharge the duties of a tidewaiter, who had watch on the deck of a vessel and prevent smuggling, a man of sobriety and honesty was required, and it would be absurd for Government to require any superior qualifications. Let the House consider the ease of a letter-carrier in the country. The wages of that officer, if

engaged every day, amounted to 12s. or 14s. a week; and, if engaged for only three days out of the seven, his wages were not more than 6s. a week. Now, anything of an extensive competitive examination in respect to such a class of persons, with questions proposed by examiners, would have an air of ridicule attached to it, and the House must admit that such a system was not applicable to them. There was, besides, an intermediate class, and he very willingly admitted that the principle advocated by his noble Friend had great recommendations in respect to that class, comprising, as it did, many persons in the superior branch of the Revenue Department and clerks nominated by the Treasury. With respect to the Secretary to the Treasury, that officer, not being the head of the department for which his nominations were made, was not interested to the same extent as the head would be in obtaining efficient servants. Therefore that class of appointments required some additional security to that which now existed. Having communicated with the Civil Service Commissioners (Sir Edward Ryan and Mr. Shaw Lefevre), who were most excellent public officers, he could state that the result of their experience was that examination by competition, where the number examined was not considerable, did, on the whole, produce more satisfactory effects than any other kind of examination, and the candidates were more efficient in the performance of their duties. Their experience, however, was in favour of the gradual and cautious extension of the principle of appointments by competitive examination. The question, then, was by what means, and in what form, that principle should be extended? The House must see that there was a difficulty in laying down any universal rule, which would operate so that all candidates for office in the public service should be brought up to London in order to undergo a competitive examination. If the examination was merely for the purpose of ascertaining that the candidate possessed a certain prescribed set of qualifications—that he had attained a certain standard, that examination could be conducted in any part of the United Kingdom by proper arrangements. But if every appointment was to be made on the principle of competition, it would be necessary to bring every candidate to one place. They could not conduct an examination by competition in different

The Chancellor of the Exchequer

places any more than they could have a race of different horses without bringing them all to one spot. Supposing that the three capitals—London, Edinburgh, and Dublin—were selected as the places for examination, a great advantage would thereby be given to persons living in or near those cities, but a person resident in Wales or Cornwall might not be willing to incur the expense of a long journey on the uncertainty of the result of the examination in his case. The consequence would be, that under such a system, a sort of monopoly would be given to persons residing in the vicinity of the three capitals. Therefore there was considerable practical difficulty in the way of laying down any universal imperative regulations on the subject. He thought that means might be found for having examinations in different parts of the country, and for affording facilities for candidates to come forward; but he did not think it would be fair immediately to lay down any such universal regulation as would impose on all candidates for public office the necessity of coming up to any one particular place. He quite admitted, however, that experience was in favour of the principle recommended by his noble Friend, and it would be the study of the Government, by gradual means, by feeling their way as they advanced, by avoiding those difficulties the existence of which experience might point out, to give as much extension as could with safety and propriety be done to the principle advocated by his noble Friend. He trusted that his explanation would satisfy the House that it was the sincere wish of the Government to carry into effect, and to give as much practical extension as circumstances would permit, to the principle of competitive examination for appointments in the civil service. That principle was adopted last year, and had afforded to the public the greatest amount of security for efficiency in all the branches of the civil service.

SIR STAFFORD NORTHCOTE said, he would submit to the noble Lord whether it would not be desirable, after the explanation made by the right hon. Gentleman the Chancellor of the Exchequer, that the Order of the Day for a Committee on the subject should be discharged? The position of the question was now satisfactory to those who desired to see the system of competitive examination further but cautiously extended, and it would be unwise, in his opinion, to press the matter

too hastily. It would be better to leave the matter in the hands of the Chancellor of the Exchequer, with the understanding that the system would be carried out in the spirit indicated.

VISCOUNT GODERICH said, that if the right hon. Gentleman the Chancellor of the Exchequer had, on a former occasion, delivered such a speech as the one just made, he should have felt it his duty to have left the question in the hands of the Government. He felt bound, however, to say that nothing could be more gratifying than the right hon. Gentleman's speech on the present occasion. In the Address which he (Viscount Goderich) had moved on a previous occasion he took care to use terms calculated not to tie up the hands of the Government, because he felt then, as now, that they were of course far better judges on such questions than any private Member. He was most ready to thank the Chancellor of the Exchequer for the promises contained in his speech; and, though the measures Government proposed to take were not specified, yet he was glad to hear that the right hon. Gentleman adopted the principle enunciated in the Address as a sound principle, and was ready to act on it in those branches of the Civil Service to which he thought it applicable. He therefore did not propose to proceed any further with his Motion for going into Committee, especially as it would be useless to do so at the present period of the Session. He was willing, therefore, that the Order of the Day should be discharged, undertaking, however, to bring forward the subject again if he found that the Government did not act in the spirit of the Chancellor of the Exchequer's speech.

MR. TITE said, he entirely concurred in the course taken by the noble Lord in withdrawing his Motion. He thought the principle might be carried out quite as far as the noble Lord intended when he first brought forward his Motion, but at the same time he was always ready to accept the honest and earnest promises of the Government. What they wanted to get rid of, as far as they could, was the principle of nomination. The recent examinations by the Society of Arts had shown that properly qualified persons would be obtained from various parts of the country, persons who had been educated in Mechanics' Institutes, and other humble institutions of a like character, those being persons who would probably never obtain nominations. At

the same time he was willing to accept the offer of the Government, and he quite agreed that any change of the kind must be carried out prudently, cautiously, and wisely.

MR. RICH said, he also was willing to accept the compromise of the Chancellor of the Exchequer, but he looked upon it as only a step in advance towards the attainment of the ultimate end—full and free competition. The Dean of Hereford, perhaps the highest authority on national education, in discussing the advantages of open competition for public offices, said, in his pamphlet on the reorganisation of the civil service, that—

“If established by legislative enactment, it will do more for the advancement of education than a Parliamentary grant of many hundred thousands a year, or than any Bill for the extension of it which the country is prepared to adopt at the present time; it will do this also on the best possible grounds, by holding out motives of an honourable kind to all classes of society to educate themselves, and will show them that good character, knowledge, industry, and fitness for the discharge of official duties, in whatever rank of life, will meet with their appropriate reward. It will be the very best Education Bill which Government can bring forward.”

He entirely concurred in those opinions, and hoped the day was not far distant when they would be adopted.

Order for Committee *discharged*.

TENANT RIGHT (IRELAND) BILL.

Order for Committee read.

MR. G. H. MOORE said, he rose to move that the order for going into Committee on this Bill be discharged. Considering the late period of the Session, and following the advice which he had received from various Gentlemen whom he had consulted, he had come to the conclusion that he should not be doing justice to the merits of the question if he were to call upon the House now to go into Committee on the Bill. If the Session, however, had not been so far advanced he should not have been deterred by the singular expedient which the Government appeared to have adopted of calling upon the hon. Member for North Northamptonshire (Mr. Stafford) to go shares with them in the blame of rejecting the Bill. He had too much reliance on the shrewdness and sagacity of that hon. Gentleman to think for a moment that he would allow himself to be made the cat's-paw of the Treasury Bench in getting rid of a measure which they themselves were “willing to wound, yet afraid to strike.” He did not think that the hon. Gentleman

was the man to lend himself to helping the Government out of the predicament into which their own intrigues had brought them. The interpolation of the Nawab of Surat Treaty Bill into the private business on two successive Wednesdays had prevented his bringing the Bill on before, and the abridgment of that day's sitting, coupled with the state of business in the House, did not allow the least hope that it could be satisfactorily disposed of during the course of the Session. He should therefore leave the Government in full possession of the advantage which they had so honourably achieved, though it was no great exertion of chivalry or generosity on his part to say that he did not grudge them one particle of the credit which their proceedings in this matter had gained for them in that House and in Ireland. Of the personal explanation which he had been fortunate enough to elicit from the right hon. Gentleman the Irish Secretary it would be superfluous cruelty to say one word, because, though it was most exceptional in tone and temper and was rather offensive than defensive, to attempt to refute it would be something like the undertaking of a well-known alderman "to put down suicide." If the right hon. Gentleman should on any future occasion feel it his duty to oppose any measure of his, he only hoped that he would accompany that opposition with arguments and statements such as those which he had advanced against the Bill now before the House. According to the explanation which the right hon. Gentleman had been ordered by the Government to make, the Government had voted for the second reading of the Bill because they acknowledged the justice of its principle; but they opposed its further progress because they wished to prevent that principle being carried into operation. It might be said that he had no reason to complain of that course, because it was precisely the course which the Government adopted with their own Bills; but, as nobody that he knew of took the slightest interest in their Bills, while a whole people took a deep interest in this Bill of his, he might be permitted to object to the parity of proceeding. The right hon. Gentleman apparently found ample satisfaction for his own intellectual shortcomings in dwelling on the state of destitution to which, he said, the Irish Tenant League had been reduced. Though the Irish Executive might be bankrupt in sense, the right hon. Gentleman found consolation

Mr. G. H. Moore

in the fact that the Irish Tenant League was bankrupt in circumstances. That, he apprehended, was not a very strong argument at best, but its strength was very much diminished by the fact that it was unfounded. The statement made by the right hon. Gentleman on a former occasion was to the effect that the Tenant League was so bankrupt that six of its members were obliged to club together to guarantee the payment of £6, but he had been misled partly by a typographical blunder, and partly by his own wilful indiscretion. On the death of the Member for Meath (Mr. Lucas) a temporary suspension took place in the operations of the League, and it being found that two sums amounting to £54 and £60 (not £6) were owing, the payment of them was guaranteed by several of the members of the League, but at the next general meeting the whole matter was settled. How the right hon. Gentleman used the argument which he drew from the weakness of the League he could not see. If it was good for anything it was an argument against the second reading, and not in favour of it. The policy which guided the *quantula scientia* was, that when Tenant League was strong and active the just principles which it advocated must be paltered with, but if it was weak and inactive the principle might be trampled on. It was to be hoped that during the recess the right hon. Gentleman would devote himself to a study of the geography of Ireland and of the habits and wants of the Irish people, of which he seemed at present to be profoundly ignorant, and perhaps in the course of the next Session he would be able to furnish the House with some ideas of his own as to the justice of the principles on which this Bill was founded. Instead, too, of engaging himself in importing into Ireland a scheme of English legislation which was as unacceptable an importation as himself, he might well employ his leisure in devising some scheme for the reformation of those Irish Members by whom he was at once supported and besieged. He should conclude by moving that the Order for the Committal of the Bill be discharged.

SIR JOHN WALSH said, he felt himself called upon to condemn the anomalous course taken by the Government in respect to their support to the second reading of the Bill; and he would also enter his protest against the proposition that the true sense of the House was taken on that divi-

sion on the principle of that most objectionable measure. He had been greatly opposed to the Bill, but all those who were in the same circumstances had waited for some exposition of the views of the Government on the subject. The consequence was that the Bill had a majority in its favour on a division taken early in the day in a very small House, when many hon. Members who intended both to speak and vote against the measure were not present. He protested, therefore, against the assumption that the deliberate sense of the House was recorded on that division.

MR. KENNEDY said, he considered there was a deeper and graver question connected with this Bill—namely, whether that House was the proper tribunal to redress an amount of grievance admitted to exist by tourists, writers, Englishmen, and every one who had taken the trouble to look into the question of Irish grievances. It was admitted on all hands that the question of landlord and tenant which had agitated so long the Irish mind ought to be settled. He objected to English and Scotch Members deciding questions which had reference to Irish wants. Was Ireland to be legislated for by Scotch and English ignorance? Were those Members the proper parties to legislate for Ireland? On a previous division there were not fewer than eight Irish Members to one in favour of the measure—that was with regard to the whole division; the majority on the other side being made up of English and Scotch Members. The retrospective clause was also defeated by forty-eight to nineteen Irish Members, the others being English and Scotch Members, the majority against the clause being only thirty-six. It was determined not to give justice to Ireland, lest a precedent should be set of doing justice either in principle or detail. It was high time for the Legislature to interfere, and to say how Ireland's opinion was to be expressed through their representatives the Irish Members.

MR. MAGUIRE said, he wished, as an Irish Member, to make an appeal to the right hon. Gentleman the Secretary for Ireland. He from the first had lamented that a private Member should have brought forward such an important measure. His hon. Friend was fully justified in bringing in the Bill, though he knew there was no possible chance of succeeding in even carrying it through that House. Such important measures brought in by private Members were only a sham, as every one knew

they could not be carried by private interest. He would tell the Scotch Members that they had as great an interest in this measure as the Irish themselves, for the national weal could not be promoted without Ireland was made happy by just and wise legislation. It was admitted on all hands that this measure was essentially necessary, and he would advise the Irish Members to press on the Government the necessity of making it a Government measure, and announcing in the Royal Address at the opening of Parliament that some such measure would be immediately brought forward. He implored the right hon. Gentleman to give a promise to introduce such a Bill early next Session, so that the Irish people should not be driven from the country to seek foreign shores, as had been the case for years past. At the time this country was embroiling itself with Russia, thousands and tens of thousands of Irishmen were leaving their country. He entreated the right hon. Gentleman not to drive the people of Ireland to despair, as they almost despaired of justice being done in this direction, but to redeem the pledge which he had virtually given to see justice done in this case. The right hon. Gentleman had met with many mishaps in the course of the Session; but he would forget all the right hon. Gentleman's shortcomings, and many that were to come, if he would promise to lay on the table a measure early next Session that should deal equitably with the question. He wished to preserve the people of Ireland to the empire; for he believed if the Irish people were retained in their own land, they would do more to recruit the national army than all the Foreign Enlistment Bills that could be projected.

MR. M'MAHON said, the question of landlord and tenant was a question of life and death in Ireland, inasmuch as it was a question of self-preservation. He warned the Government that, when a new election took place it was not unlikely that the Members who would be sent to that House would be Members pledged to an equitable settlement of the question. The Bill was only a compromise, and he trusted, when a new Bill was introduced, it would be based on sounder principles of political economy, such as fixity of tenure and value in corn rent.

MR. VANCE said, he must deny that the entire of the Irish Members were in favour of such a Bill, and if the Irish electors did, as the hon. and learned Member

suggested, study political economy, he was sure they would never vote for such a Bill, which, in fact, was originally only got up for an election cry. He had no objection to a measure being introduced that would consider contracts between landlord and tenant; but if such a Bill was carried as was advocated by Mr. Sharman Crawford, the hon. Member for Mayo (Mr. G. H. Moore), and other Irish Members, the only result would be to unsettle property and contracts, and to create business for lawyers.

MR. POLLARD-URQUHART said, it was his belief that the support given to the Bill was sincere. In all countries where tranquillity was enjoyed the tenants had received some security for their tenures, the only exception being Ireland. It was, however, more essential that that security should be given to Ireland, in consequence of difference of religion and other social estrangements, which were well known and admitted to exist. Whiteboys, oakboys, peep-of-day-boys, ribbon societies, and Orange societies, might all be traced to the want of security to tenants, and the anomalous state of the law between landlords and tenants. He would appeal to hon. and right hon. Gentlemen on the Treasury bench to consider how the question would affect the representation if the people returned Members pledged to this question and open to every other question. The noble Lord at the head of the Government had obtained great fame as the statesman who had been the first to stem Russian aggression; but would it not be as well for him to augment his reputation and his laurels by securing a measure of justice for the Irish people?

VISCOUNT PALMERSTON: Sir, the course which Her Majesty's Government have to pursue in regard to this question is, I think, sufficiently clear. My own opinion on the relations between landlord and tenant has never been concealed; it was plainly expressed in the Committee of which I was a Member some years ago, and it has also been fully expressed in this House on former occasions. On general principles I think it undesirable, and indeed highly objectionable, that Parliament should interfere with the transactions between parties who may make bargains with each other. There can, I imagine, hardly be two opinions on the proposition, that it is most hurtful for the law to interpose between landlords and tenants, or between buyers and sellers of any description, and

Mr. Vance

prescribe to either on what conditions their mutual contracts shall be based. But Her Majesty's Government have felt and have avowed that, in the very peculiar position in which Ireland stands in regard to the relations between landlord and tenant, an exception might be made to that general and just principle. On that ground, dealing with this matter as an exceptional case, we last year undertook the charge of a Bill which—although we might not approve in the abstract all the arrangements it proposed—we were still led to believe would, if passed into law, put an end to those local disputes which have disturbed the tranquillity of the country and prevented that harmony which ought to prevail between different classes in the sister kingdom. We did our best to settle this question last Session, but we were disappointed in our expectations. Owing to the conflict of opinion between different parties as to the provisions of the measure, that Bill failed. We come, then, to the Bill now under discussion, which is certainly very different in its character and scope from the measure which we declared our intention last year to support. My right hon. Friend the Secretary for Ireland did not deem it his duty to oppose the second reading, in order that ample opportunity might be afforded for a full expression of the opinion of the House on the Bill; but I cannot regard the measure as one which ought to be passed into law, and, as we have now arrived at another stage of its progress, I shall certainly feel it right to— [MR. HORSMAN: The Bill has been withdrawn.] I was not aware of what occurred earlier in the discussion, having been detained elsewhere by other business; but, as I learn that the Bill has been abandoned, of course the debate upon it ought to close. The proposers of the measure are entitled to insist on the observance of the maxim, "*De mortuis nil nisi bonum.*" If it is dead, let us be silent on the subject. One word as to the intentions of the Government respecting this question in the next Session. I have already stated our opinion on the general question; and although we do not think that in the present temper of Parliament there is any likelihood of any Bill on this subject passing which we might be disposed to bring in, we shall of course feel it our duty to give the most respectful consideration to any measure which any independent Member may introduce.

Order discharged.

JUDGMENTS EXECUTION, ETC., BILL.

Order for Committee read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

COLONEL FRENCH said, he should move that the House go into Committee that day three months; he trusted, however, that the hon. and learned Member (Mr. Craufurd) would withdraw the Bill.

MR. M'MAHON said, he would second the Motion on the ground that the Bill was of an objectionable character.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

MR. J. D. FITZGERALD, said, he had considered the Bill, and approved of its principle, as did also his hon. and learned Friend the Solicitor General for Ireland, the Attorney General for England, and the right hon. and learned Lord Advocate. The Bill had been fully discussed, and the opinion of the House had been unequivocally pronounced upon it. On those grounds he thought the House ought to go into Committee.

MR. NAPIER said, as great doubts had been expressed as to the mode of carrying out the Bill, he thought that was reason enough for asking the House to pause before they proceeded with it. He knew also there was a very strong feeling in Ireland against the Bill, and especially among the commercial communities.

COLONEL DUNNE said, he must oppose the Bill, because he knew it was unpopular in Ireland. The theory might be right, but the mode of applying it might be prejudicial. He did not think that the right hon. and learned Gentleman the Attorney General for Ireland was quite entitled to claim the confidence of Ireland, either in respect to civil or criminal matters.

MR. WHITESIDE said, he trusted the House would see the impolicy of passing the Bill at that moment. It was one of those instances which showed how dangerous it was for individual Members to attempt to change the law of a country they knew little of. The Bill looked smooth enough on paper, but when they examined it thoroughly many faults would be found. It would give no jurisdiction to the Courts in Dublin by which relief could be granted from a judgment fraudulently obtained. As the course taken was not in the right

direction, he should oppose going into Committee.

MR. CRAUFURD said, the hon. and learned Gentleman would lead the House to suppose that the Bill gave certain powers to creditors; but that was not so. All he asked was, that the House should go into Committee, and no doubt the Bill would be made perfect.

MR. M'CANN said, he should vote against the Bill. It was one of great suspicion, and in that light the commercial classes in Ireland viewed it.

On Question being put, "That the word proposed to be left out stand part of the Question."

The House *divided*:—Ayes 74; Noes 69: Majority 5.

Question again proposed, "That Mr. Speaker do now leave the chair."

MR. VANCE said, the hon. and learned Member (Mr. Craufurd) could not surely think of going on with the Bill when so small a majority was in favour of going into Committee. He should, therefore, move the adjournment of the debate.

The House *divided*:—Ayes 63; Noes 73: Majority 10.

Question again proposed.

MR. WHITESIDE said, he would ask the question, whether the hon. and learned Member for Ayr really intended to persevere with the Bill, which was one of great difficulty, if not impracticable? He thought the hon. and learned Gentleman (Mr. Craufurd) would only waste the time of the House by pressing his Bill now, and he would recommend him to postpone it until the next Session. The measure which the Attorney General for Ireland had intimated that it was his intention to introduce next year would probably effect the objects the hon. and learned Gentleman had in view.

THE LORD ADVOCATE said, he would request hon. Members on the other side of the House to allow Mr. Speaker to leave the chair. The only way to see whether the Bill could be worked out was to go into Committee. He could not imagine by what means the Bill could be considered an Irish Bill, as it applied both to Scotland and Ireland.

MR. HENLEY said, he thought it rather hard to ask the House to go into Committee when they had not seen the clauses in print which the right hon. and learned Member for Ennis (Mr. J. D. Fitzgerald) said he had ready to apply to Ireland.

MR. CRAUFURD said, all he would ask was that they go into Committee, and immediately report progress.

MR. MALINS said, he did not object to the principle of the Bill, but he certainly saw that it was too late in the Session to go on with it, as the details would require much revision. He would suggest going into Committee *pro forma*.

COLONEL FRENCH said, he objected altogether to going on with the Bill. The support given by the Government was most unreasonable, seeing that upon that very subject they had abandoned all their own Bills. So strongly did hon. Members on that side of the House feel against the passing of the measure, that they must refuse to proceed further. [The hon. Member was speaking when a quarter to Six arrived, upon which he was stopped by Mr. Speaker.]

Debate adjourned.

THE ASSESSED TAXES ACTS.

Order for Committee read.

House in Committee.

THE CHANCELLOR OF THE EXCHEQUER said, he had to move a Resolution, the object of which was to make an alteration in the duty payable by those who kept race-horses. The annual duty at present was £3 17s., and was paid upon all horses kept for racing or training; but a complaint having been made by some persons that this tax was unjustly levied, and that they were anxious to pay a tax upon their horses for every race run by them, the Resolution was proposed to enable the alteration to be made.

Resolution *agreed to*.

Resolved—"That from and after the fifth day of April, one thousand eight hundred and fifty-seven, in lieu of the annual Duty of three pounds seventeen shillings, now chargeable under the Acts relating to the Assessed Taxes for every horse kept or used for the purpose of racing or running for any plate, prize, or sum of money, or other thing, or kept in training for any of the said purposes, there shall be charged annually an Excise Duty of the like amount for every horse which shall start or run for any plate, prize, or sum of money, or other thing."

House resumed.

APPELLATE JURISDICTION (HOUSE OF LORDS) SALARIES AND RETIRING PENSIONS.

Order for Committee read.

House in Committee.

THE CHANCELLOR OF THE EXCHEQUER said, he had now to move a Reso-

lution, declaring that provision should be made out of the Consolidated Fund for the payment of retiring pensions to Deputy Speakers of the House of Lords.

Resolution *agreed to*.

Resolved—"That provision be made, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, for payment of the Salaries and Retiring Pensions of the persons who may be appointed Deputy Speakers of the House of Lords under the provisions of any Act of the present Session relating to the Appellate Jurisdiction of the House of Lords."

House resumed.

The House adjourned at one minute before Six o'clock.

HOUSE OF LORDS,

Thursday, July 10, 1856.

MINUTES.] PUBLIC BILLS.—1^a Bishops of London and Durham Retirement.

2^a Labourers' Dwellings Act, 1855, Amendment; Saint Sepulchre's Manor (Dublin); Church Building Commission.

3^a Distillation from Rice; Dwellings for Labouring Classes (Ireland); Court of Exchequer (Scotland).

SALE OF POISONS—QUESTION.

LORD CAMPBELL rose to ask his noble and learned Friend on the woolsack the question of which he had given notice respecting a subject of great importance. He would not now revert to the facts which had been disclosed during the trial of a recent case, as they must be well known to their Lordships; but, he was shocked to say, that for too many years past the crime of poisoning had become most alarmingly common in this country, and it was to be feared that the facilities which existed for the commission of the crime were what had led to its frequency. Many crimes of the kind had been caused by the institutions called burial societies, the members of which had in several instances been proved to be accessory to the death of their own offspring. Another class of these cases arose out of the present system of life insurance. Life insurances had been effected by parties who possessed no interest whatever in the lives of the persons insured, and this had been done with the premeditated object of committing murder by the administration of poison. Irrespective of anything that had recently been disclosed, he knew, from his own observation and experience on the bench, that many cases had been proved where insurances had been effected with a

view to afterwards committing murder, and that on the consummation of the act, the money insured under the policy had been received. Until very lately there had been no regulation with respect to the sale of poisons, and accordingly arsenic could be purchased just as easily as Epsom salts. The consequence was, that poisoning by arsenic became alarmingly common, particularly in the counties of Essex and Norfolk; and the first case of capital conviction that he tried after he had the honour of a seat on the bench was that of a woman whose familiarity with the use of that poison was so notorious that it had procured for her the name of "Sally Arsenic." The Act which had passed for regulating the sale of arsenic had had a very beneficial effect, and arsenic had gone somewhat out of fashion; but, unfortunately, another poison equally deadly in its effects, *nux vomica*, had taken its place. A person might now go to any druggist's shop in England and buy a pennyworth of *nux vomica*; he had only to say that he wished to poison rats, and at once the *nux vomica* was sold to him without the smallest hesitation or reluctance. True, *nux vomica* was not so powerful a poison as the alkaloid of strychnia, which was extracted from it, but its administration was attended with the same results. In fact, however, they could not only buy *nux vomica*, but strychnia itself, from the druggists, without difficulty of any sort. It was a matter of serious importance, then, that some restraint should be put upon the sale of these poisons, and he thought it the duty of the Government to consider and decide what other substances besides arsenic there were, the sale of which ought to be restrained or prohibited. He should be happy to assist them in framing a measure for regulating the sale of poisons, and would be glad if his noble and learned Friend would inform him whether the Government intended to introduce a Bill for that purpose.

LORD RAVENSWORTH said, that, before the Lord Chancellor answered the question, he wished to suggest that it might be advisable to institute some further regulations with reference to insurance companies, which might have the effect of checking the crime of poisoning. He thought that in every case where a company had such reasonable suspicions with regard to the cause of death of a party insured as to conceive themselves warranted in giving notice to other in-

surance companies, it should also be incumbent upon them to give information to and lay the circumstances of the case before the Home Secretary, in order that due inquiry might be made by those whose duty it was to protect the lives of Her Majesty's subjects.

THE EARL OF DONOUGHMORE said, the noble and learned Lord had committed a breach of the orders of the House by the course he had adopted in this instance. It was the rule of the House that the first quarter of an hour of their sitting should be devoted to the reception of petitions; but no sooner had the Lord Chancellor taken his seat on the woolsack than the noble Lord had risen and put the question of which he had given notice, although in the proper order of proceeding it should have come after the other business on the paper. He trusted the Lord Chancellor would not answer the question of the noble and learned Lord until the orders of the day were disposed of.

THE LORD CHANCELLOR: The question put to him by his noble and learned Friend had been followed by some observations from another noble Lord; and if putting the question had justified that noble Lord in observing upon it, it certainly justified him (the Lord Chancellor) in giving it an answer. The only answer he could give, however, was, that five years ago this subject was under the consideration of his right hon. Friend who was then, as now, Secretary of State for the Home Department, and the result of the investigation which then took place was the introduction of a measure confined to the sale of arsenic; and he understood from his right hon. Friend that the reason for that measure being confined to arsenic was, that there were difficulties of a serious nature in the way of defining the different poisons. He thought that a number of other ingredients might be put in the same category with arsenic; but it was the opinion of one of the most eminent medical men in the metropolis, that great evil might be done by furnishing the public with a list of seventeen other articles, all of which were quite as deadly poisons as arsenic; and this was the reason that the measure did not go further and include those articles. But there were now some other poisons—and strychnia amongst them which recent events had made familiar to the public, and he did not see, therefore, why they should not be placed in the same category; and his right hon. Friend the

Home Secretary had authorised him to state that the question should have his careful and attentive consideration.

MUTINY OF AN IRISH MILITIA REGIMENT—QUESTION.

THE EARL OF DONOUGHMORE drew attention to the fact that a statement had appeared in the public journals of that day to the effect that a militia regiment stationed in Nenagh, in the county Tipperary, had mutinied against its officers, and that regular troops had been employed to suppress the *émeute*. He wished to know if the noble Lord the Minister at War could give any explanation of the affair to the House?

LORD PANMURE said, that as yet he had no official information upon the subject, though he had received a private letter from the Lord Lieutenant of Ireland, which stated that such an occurrence as that to which the noble Earl referred had taken place, but did not give him any particulars further than those which were contained in the public papers. It appeared that there had been a mutinous movement arising from some misunderstanding which existed with respect to giving up the clothing of the militia; but he trusted that the affair had been exaggerated, and that their Lordships would suspend their judgment respecting it until they had an opportunity of making themselves acquainted with the circumstances of the case.

DWELLINGS FOR LABOURING CLASSES (IRELAND) BILL.

On the Motion for the third reading of this Bill,

THE MARQUESS OF WESTMEATH objected to the seventh clause, which prohibited landlords who were magistrates from acting in matters in which they were personally interested. He had had the honour of holding Her Majesty's commission for fifty years, and he did not know of the occurrence of a single case of the kind. It was a libel on the magistrates of Ireland to insert such a clause. The clause further prohibited agents from acting in the causes of their principals. Now, what constituted an agent? An agent was one who did anything for another person, and the most nonsensical objection might be taken under such a clause. The clause was an insult, from whatever quarter it came, upon the magistrates of Ireland. He should move that

The Lord Chancellor

the seventh clause be expunged from the Bill.

THE LORD CHANCELLOR intimated that the Motion could not be made upon the third reading of the Bill. It could only be taken before the Motion that the Bill do pass.

Bill read 3^a.

THE MARQUESS OF WESTMEATH then moved that the seventh clause be struck out of the Bill.

THE MARQUESS OF CLANRICARDE, after suggesting some verbal amendments, said that as to the seventh clause, although he had the greatest respect for the Irish magistracy, who had done their duty in times of great uncertainty, yet he must say that the noble Marquess opposite was quite mistaken in supposing that no cases of magistrates sitting in judgment in their own case had occurred. He himself had been personally concerned in the removal from the magistracy of a magistrate for having done this very thing. There could be no doubt but that the thing was done. Still he did not think that this part of the clause was of any great importance. But the part which related to agents was of importance. The noble Marquess was mistaken when he said that an agent could not be defined. There could be no doubt as to the meaning of the term, and it was perfectly understood in Ireland. As to the insult on the magistracy, it was no more an insult than a precaution taken against offences by clergymen were insults on the clergy. These things were not insults; they were only safeguards against human frailty.

LORD CAMPBELL wished to preserve their Lordships from the discredit of passing such a clause as the seventh clause of this Bill in its present form. It was absurd to prohibit that which was actually illegal, and nothing was more certain than that it was unlawful for a judge of any degree to be a judge in his own cause. Any justice of the peace so offending could not only be removed from the commission, but would be liable to a prosecution at common law for a misdemeanor; and if a case came before a bench of magistrates, and any magistrate present was interested in such case, he was bound to leave the bench, and if he did not the Queen's Bench would quash the decision. He therefore considered the clause, so far as it related to landlords who were magistrates, was quite unnecessary. As to what was said about laws passed respecting the clergy,

these laws were intended to prohibit practices which the clergy had previously done and considered lawful; but there was no instance of a law being passed against that which by law had been already declared illegal and void. If, however, its operation was restricted to agents of landlords, who might also be magistrates, he should feel inclined to support the clause. Their Lordships knew very well what an Irish agent was—one who often had a very strong personal interest in his principal's property, and who therefore could not be an impartial judge in any dispute affecting that property. There ought, therefore, to be a disqualification against his sitting where his principal was concerned.

VISCOUNT DUNGANNON regarded the clause as an uncalled-for reflection on the magistracy of Ireland, and would support the Motion of the noble Marquess for expunging the clause.

THE EARL OF DONOUGHMORE said, that there were no body of men who performed their official duty better than the Irish landlords. They had done so in times of difficulty and danger. However, he looked upon the measure as so useful a one, that he would not wish to see its progress through Parliament endangered by a division on an Amendment such as that moved by his noble Friend.

THE EARL OF WICKLOW hoped that his noble Friend would not withdraw his Motion. He looked upon the clause as unnecessary. No magistrate would act in the way contemplated by the clause.

THE MARQUESS OF WESTMEATH could not consent to withdraw his Motion, for he thought the clause offensive and unnecessary.

LORD DENMAN would vote with the noble Marquess if he divided the House, but he recommended his noble Friend to withdraw his Motion.

THE MARQUESS OF CLANRICARDE said, he would adopt the suggestion of the noble and learned Lord (Lord Campbell), and would propose to amend the clause by confining its operation to the agents of landlords, instead of referring to landlords and agents indiscriminately.

VISCOUNT DUNGANNON objected to casting a slur upon the agent of the landlord any more than upon the landlord himself. Most agents in Ireland were magistrates, and their conduct as magistrates was, generally speaking, unexceptionable.

THE EARL OF WICKLOW presumed that if the landlord who sat in judgment upon his own case was violating the common law, the agent of the landlord, if he sat to hear the landlord's case, would be guilty of the same offence. Why, then, should the agent be prohibited by this clause if the landlord was not to be? If they omitted the word "landlord," which he thought they should, there was no reason for inserting the word "agent."

LORD CAMPBELL said, that the case of the landlord and that of his agent were not quite parallel. The landlord would clearly be sitting in judgment on his own case. There could be no difficulty about that. But could they say that the agent sitting on the landlord's case was sitting on his own?

On Question, their Lordships *divided*:—
Content 25; Not Content 13: Majority 12.

Amendment *negatived*.

The Amendment of the Marquess of CLANRICARDE was then *agreed to*, and the clause, as amended, ordered to stand part of the Bill.

Bill *passed*, and sent to the Commons.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

THE LORD CHANCELLOR *presented* a Bill to provide for the retirement of the present Bishops of London and Durham, and said it was perhaps known to their Lordships that two distinguished members of the episcopal bench were unfortunately in such a state of health as to disqualify them for the discharge of their several duties, and that they had signified their wish to retire from their respective bishoprics. Under such circumstances it was but reasonable that provision should be made for retiring allowances for those right rev. Prelates—he alluded to the Bishop of London and the Bishop of Durham. He therefore asked their Lordships to assent to the first reading of a Bill to effect that object. The measure was one to enable those right rev. Prelates to retire, and to make provision for them after the resignation of their sees. If their Lordships assented to the first reading, he would propose to take the second reading to-morrow (Friday).

LORD REDESDALE said, that the principle of the Bill was one that demanded considerable attention. It was no doubt desirable that some general measure should be adopted to meet such contingencies;

but the policy of passing a particular measure relating only to two sees, he thought was extremely questionable. In his opinion it was a dangerous precedent to lay down, and might be acted upon whenever an occasion arose of a bishop desiring to surrender his see ; and it would be a far preferable mode of proceeding to introduce a general measure enabling members of the right rev. Bench, under certain restrictions, to retire when they felt themselves disqualified from performing their episcopal functions efficiently. He trusted their Lordships would not allow a Bill relating to particular sees to be brought hurriedly forward at a late period of the Session, and passed without that consideration which the magnitude of the subject required. If he were met by the argument that inconvenience would result from postponement, all he could say in reply was that the course which he recommended was open to less objection than, within a few weeks of the end of the Session, to pass a measure which ought to be maturely considered in all its parts ; and, for his own part, before being called upon to agree to the second reading, he should like to have an opportunity of communicating with others on a subject of so much importance.

THE EARL OF HARROWBY hoped that the noble Lord did not intend to offer any protest against the Bill. Even if the present Bill passed, he was quite sure that a general Bill upon the subject would be ultimately adopted. The present measure, however, was of an urgent character and demanded their Lordships' immediate attention.

LORD CAMPBELL thought that the right rev. Prelates ought to be placed in the same position in respect as to retirement as Her Majesty's Judges, holding their office while able to discharge their duties, a liberal provision being made for them when forced by age or other cause to retire. There was, however, no doubt that great care should be observed in laying down a general rule upon this subject. He should rejoice to see a general measure brought forward, but all their Lordships must feel that it was urgently necessary for the Government to pass the present Bill. The manner in which the two right rev. Prelates had voluntarily come forward to tender their resignations, must raise them in the estimation of the whole community. The most laudable disinterestedness and praiseworthy conduct had been evinced by those two right rev. Prelates.

Lord Redesdale

It would not be fair to oblige those Prelates to wait for a general measure, and the delay would be felt as a disappointment to the whole community.

LORD REDESDALE said, he did not wish to pledge himself to any particular course in respect to the present measure. He thought it would be most desirable that there should be time given to enable noble Lords who took an interest in the question to express their opinions upon the Bill on the second reading. There was much less evil to be apprehended from delaying legislation on the subject for six months longer than to pass without due consideration a Bill of this character, affecting only two particular sees. The result of this measure would, of course, be the placing the nomination of those sees in the hands of those who brought in the Bill. It was, in his opinion, most important that the object sought for should only be carried out by a general measure.

LORD DENMAN supported the Bill, which was but a measure of simple justice to the two right rev. Prelates who had made such voluntary sacrifices,

THE LORD CHANCELLOR hoped that the noble Lord would not press for delay in the second reading of the Bill. If the noble Lord intended to move for any alteration in the measure, he would have the opportunity of doing so in another stage. At this late period of the Session he did not think it reasonable to seek for a postponement of the second reading. He quite agreed with the noble Lord that a general measure would be desirable if the Session were not so far advanced. Their Lordships owed it to those distinguished Prelates to pass the measure as speedily as possible. There were facilities for the carrying out the objects of the Bill in the case of the two right rev. Prelates which did not exist in the case of other Prelates. The retiring allowance for the Bishop of London, for example, could be made without trenching upon any fund at all ; it would come out of the revenue which the right rev. Prelate was at present receiving. The Bishop of Durham was, to a certain extent, in the same position.

VISCOUNT DUNGANNON very much doubted whether the remedy now proposed might not establish a precedent of a serious character. He did not think that such a measure as this should be passed at so late a period of the Session.

THE EARL OF POWIS saw no reason why the second reading of the Bill should

not be postponed until Monday, at all events.

Bill read 1^a.

Then it was *moved*, That the Bill be read 2^a To-morrow.

LORD REDESDALE said, he did object to the second reading being taken so soon. It was most monstrous for the Government to bring on a Bill at such a time as that, in the absence of so many noble Lords, and when there was not a single Prelate in the House. If he were to stand alone, he was determined to divide against the second reading being taken to-morrow.

THE LORD CHANCELLOR said, that the Bill would only be placed upon the orders of the day for to-morrow.

VISCOUNT DUNGANNON hoped that the Bill would be postponed until Monday.

THE DUKE OF RICHMOND said, he was not prepared to pledge himself to the principle of the Bill without further consideration. He trusted that the noble and learned Lord would assent to the Bill standing amongst the orders of the Day for Monday.

Motion (by leave of the House) *withdrawn*; and Bill ordered to be read 2^a on Monday next.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Thursday, July 10, 1856.

MINUTES.] PUBLIC BILLS.—1^o Income and Land Taxes; Ecclesiastical Courts, &c.; Stamp Duties; Racehorse Duty.

2^o Corrupt Practices Prevention; Customs (No. 2); Indemnity; Episcopal and Capitular Estates Continuance.

3^o Revenue (Transfer of Charges); Incumbered Estates (Ireland); Magdalen Hospital, Bath; Endowed School at Moulton; Court of Chancery (Ireland) (Receivers); Prisons (Ireland).

VACCINATION BILL.

Order for Committee read.

MR. COWPER said, the whole subject treated of by this Bill was one of great difficulty; three Acts of Parliament had been passed in reference to it, and it was generally admitted that, hitherto, legislation had been unsatisfactory, and the present law was in such a state that it could not continue as it was. The defects were obvious. Public vaccinators were appointed throughout the country, but there was no security that they should be skilful and competent to discharge their duties. There was no security provided that the lymph

should be of a healthy character. The whole country was divided into districts, but some districts were too small to allow of the lymph being constantly provided and circulated from children vaccinated to children not vaccinated, and others were so large that parents were subjected to great inconvenience in bringing their children to be vaccinated. There was an elaborate system of registration for the purpose of detecting cases of omission; but the register was not complete. One of the provisions of the law was, that every surgeon should register all cases of vaccination successfully performed by him; but the private medical men were not remunerated for it, and in consequence neglected to return their cases. Those gentlemen were very ready to undertake labours for the benefit of their patients, but they were unwilling to occupy their time for the benefit of the public without remuneration. The law imposed a penalty for non-vaccination, but there were no means of inflicting it; no one was called on to prosecute, and there was no fund out of which the expenses of prosecution could be defrayed. It was urged upon the Government that such a state of things ought to be remedied, and last year a Bill was introduced by the hon. Member for Leitrim (Mr. Brady), which proposed to transfer the administration of the law of vaccination from the boards of guardians to the General Board of Health. He was strongly opposed to that proposition, because, although the Board of Health was supposed to be associated with an ardent and enthusiastic love of centralisation, before he succeeded to the post he now occupied he did not share that feeling, and he had not since been either inoculated or vaccinated with it. In his opinion, such a measure as vaccination could only be carried into effect by local machinery, and therefore he declined to adopt the Bill of the hon. Member. But, as it was evident that the law must either be altered altogether or made efficient, he had turned his attention to the latter alternative and introduced the present Bill. He thought to secure more careful and skilful vaccinators, by placing them under the superintendence of a body of medical men of eminence, and requiring a certificate of attendance at a smallpox hospital and of skilful performance of the operation. He thought to effect an improvement in the districts by making them co-extensive with the present registration districts. With regard to re-

gistration, he proposed to establish under the Bill a system which should be complete and satisfactory; and he also introduced a provision enabling the board of guardians to charge on the poor-rate the expense of prosecutions in those cases of obstinate non-compliance with the law in which they thought it necessary to proceed. Objections were urged against the compulsory clauses which he proposed to retain in his Bill. It was said that the Legislature should never compel people to do anything which they did not like; but the force of that objection was greatly weakened by the argument, that in compelling vaccination they were not obliging people to do anything disadvantageous to themselves, but merely to take precaution against a loathsome and terrible disease, which spread with great rapidity and destroyed a greater proportion of those attacked than perhaps any other known disease. It appeared that the proportion of deaths from smallpox of persons attacked, without the protection of vaccination, was one in three, or one in four. When such was the virulence of the disease and the extent of the mortality resulting from it, it appeared to him that there was no constitutional reason why parents should not be obliged to do what was necessary for the preservation of their own and their neighbours' children. A man was not allowed to burn down his own house, because it would endanger his neighbour's property; and if the only objection to the Bill had been to its compulsory character, he should not have hesitated to press it upon the attention of the House. But there was another objection far more weighty. It was asserted that a great number of persons did not admit that vaccination was a proper, safe, or efficient measure of precaution against the smallpox, and that certain disorders not merely followed, but were caused by vaccination. In 1806, there was an inquiry by the most eminent medical men of that day, and they reported that no instance had arisen of other diseases having been propagated by vaccination, and it was stated, that in no case out of 40,000 had any evil consequences resulted, and although medical science repudiated the notion that any other disease could be given by vaccination, yet they knew that medical opinions were not infallible, and he should be very sorry to be the means of putting on the Statute-book a compulsory enactment against the deliberate convictions of any large class of the community. He believed

Mr. Cooper

the great opposition which had arisen to that Bill was directed more against vaccination than against the Bill itself. It might be that there was something in the manner in which vaccination was performed among the poorer classes which prevented its being as safe and efficient a precaution as it was for the richer portion of the community. They were not, however, legislating for the higher, but for the lower classes. Under these circumstances, he had thought right to adopt a suggestion of the hon. Member for Finsbury (Mr. T. Duncombe) to move for a Select Committee next Session to inquire into the manner in which vaccination was practically performed, and to move now that the order for going into Committee on this Bill be discharged. The hon. Member moved that the order be discharged.

MR. T. DUNCOMBE said, he thought the course proposed by the hon. Gentleman was a judicious one. This was a difficult and delicate question, with which the House was very little acquainted, and in regard to which investigation should precede legislation. In 1840, Sir Robert Peel, being urged to make vaccination compulsory, expressed his opinion that such a course would be repugnant to the habits and feelings of the British people, and to that freedom of opinion and action to which they were well accustomed. In 1843, at a later period of the Session than that which had now been arrived at, a compulsory Vaccination Bill was smuggled through the House. Fortunately, it became inoperative by its own defects, and remained a dead letter. It was proposed to remove those defects and make the law more stringent; but, while he believed great good had resulted from vaccination, he did not think it would be encouraged by penal enactment. The course adopted by the hon. Member for Hertfordshire was most judicious, and he rejoiced at the question being ended for the present Session. He hoped also to hear that the right hon. Baronet the Home Secretary would follow this example with respect to the Burials Act Amendment Bill.

MR. HENLEY was very glad this Bill was about to be withdrawn. He believed that the endeavour to make vaccination compulsory had been most mischievous in its effects. Vaccination was quietly making its way; people were adopting it more and more, but from the moment it was made compulsory, they began to think that every evil which happened to their children after-

wards necessarily ensued from it. He had no objection to the subject being referred to a Select Committee another year, but no report would satisfy him that it was desirable to make vaccination compulsory.

MR. MICHELL said, that smallpox, treated upon the hydropathic principle, would not, under any circumstances, be fatal to the extent of three per cent. And, since the authorities of the Smallpox Hospital returned the mortality as high as thirty-five and fifty per cent upon the number of cases, they should at least keep ambulances, and not encourage the practice of bringing patients to the hospital in public cabs. He had no objection to vaccination being tried as much as they pleased, but he believed it was one of the greatest humbugs the world ever produced.

MR. TOLLEMACHE said, if the Bill had not been withdrawn, he should have objected to any charge for prosecutions being thrown on the union fund, unless some more equitable mode of raising that fund than the present was adopted.

Order discharged.

APPELLATE JURISDICTION (HOUSE OF LORDS BILL—(SALARIES AND RETIRING PENSIONS).

Upon the report of the Resolution in Committee being *brought up*—

"That provision be made, out of the Consolidated Fund of Great Britain and Ireland, for payment of the Salaries and Retiring Pensions of the persons who may be appointed Deputy Speakers of the House of Lords under the provisions of any Act of the present Session relating to the appellate jurisdiction of the House of Lords."

MR. HADFIELD rose to object to the Report being received.

SIR GEORGE GREY appealed to the hon. Member not to raise any discussion upon a formal Resolution, necessary for the introduction of a clause. It did not bind the House, and the question must be raised again in Committee on the Bill.

MR. HADFIELD felt that the prerogative of the Crown to create life peerages ought not to be surrendered or impeached in any way whatever, and that the rights of Lord Wensleydale ought not to be prejudiced. The object of this Bill was to limit and restrict the prerogative, and he had intended to divide the House upon the question that the Report be received; but, as a discussion would take place at the evening sitting, he would yield to the appeal of the right hon. Baronet.

Resolution agreed to.

FORMATION OF PARISHES BILL.

Order for Committee read.

House in Committee.

Clauses 9 to 24 *agreed to.*

Clause 25,

SIR GEORGE PECHELL moved a proviso—

"That when the patronage of any church or chapel to which a district shall have been assigned is vested by any of the Church Building Acts, or by this Act, or by any local Act, in the incumbent of the original parish, district, or place, out of which such district has been taken, the person holding the incumbency of such original parish, district, or place, at the time of the passing of this Act, shall not be deprived of the patronage of such church or chapel by any assignment of the same during his incumbency."

THE MARQUESS OF BLANDFORD said, a former clause provided that where an incumbent had mainly contributed to the erection of a church he should have the patronage, which met the case.

MR. BOUVERIE thought the proviso a reasonable one.

Proviso agreed to; the words, "Church Building Acts" being, on the Motion of Mr. HADFIELD, struck out.

Remaining clauses agreed to.

On an additional clause being moved, enabling grants to be made of lands for the site of a house or garden for any spiritual person serving any church or chapel, the Statute of Mortmain notwithstanding,

MR. HADFIELD objected to the exemption. Every sect in the country, every school, every charity, was subject to the Mortmain Act, and he did not see why the same law should not be applied to all classes.

THE MARQUESS OF BLANDFORD said, he could not agree to the Amendment.

MR. PELLATT supported the Amendment.

SIR GEORGE GREY said, if the quantity of land was to be limited to a site for a parsonage and garden, he thought the objection would be obviated.

THE MARQUESS OF BLANDFORD said, the real object of the clause was to enable the grantees to attach conditions to the grant, so that if land granted for a parsonage was devoted to another use, there might be pre-emption.

MR. DUNLOP suggested, that the quantity of land should be limited to one acre.

Amendment agreed to; and

Clause, as amended, ordered to be added to the Bill.

The House resumed. Bill *reported*, as amended.

INDIAN APPEALS—QUESTION.

SIR ERSKINE PERRY asked the President of the Board of Control, whether he contemplated bringing in a Bill to provide a Judicial Tribunal in India, with appeal to the Privy Council in England, for the investigation and decision of such claims on the private rights of the Native Princes and grantees of Government as were now decided by the Executive Government without hearing and in the absence of the parties?

MR. VERNON SMITH replied, that he had no intention to bring in such a Bill, as he did not see his way to any satisfactory result. A measure of the kind would effect a complete change in the constitution of the Government of India, and would require great consideration.

NAVIGATION OF THE DANUBE—TREATY OF PARIS—QUESTION.

COLONEL DUNNE asked the First Lord of the Treasury, whether by the Treaty of Paris, which provided for the opening of the navigation of the Danube, any persons other than Austrian subjects would be allowed to possess steamers and navigate that river above the frontiers of Austria on the same terms as subjects of that empire?

VISCOUNT PALMERSTON said, that by the Treaty of Paris the navigation of the Danube was to be rendered liable to the stipulations of the Treaty of 1815. By the provisions of that Treaty such rivers as divided or traversed different States were to be free to the navigation by vessels of all nations, subject only to such regulations of police and other matters as a Commission, composed of members from the riverain or border States, should establish. He should apprehend, therefore, that under the provisions of the two treaties it would be competent for the vessels of any country to enter the Danube from the Black Sea, and to ascend that river as far as it was navigable in its course, subject always to such regulations as were contemplated by the Treaty of 1815 to be established with regard to such vessels. He believed, however, that the question of the hon. and gallant Member applied to a certain monopoly given to an Austrian company by former arrangements with Austria. He apprehended the opinion of the Congress to be, that that arrangement could not stand against the stipulations of the treaty. The Austrian Government might give any immunities they

pleased as affecting their own ships only, but they could not, by virtue of an order issued by their own authority, supersede the engagements of the treaty.

INDIAN CURRENCY—QUESTION.

MR. CHEETHAM asked the President of the Board of Control if his attention had been called to the great inconvenience at present sustained by the commercial classes in India from the scarcity of a metallic specie in that country, and whether it was the intention of the Indian Government to take any measures to remedy the same, by the creation of a gold coinage as a legal tender in addition to the silver coinage now current there; and if he was able to lay on the table of the House a Report of the extent of railway communication now in operation and in course of construction in India?

MR. V. SMITH said, that since he had been at the Board of Control he had heard no complaint of inconvenience from the scarcity of metallic currency. With respect to the second question, he stated that there was no Report on the whole state of railways in India in the possession of the India Board; but some correspondence had taken place on the subject. He should be ready to answer any specific question on the subject, or, if desired, to lay the correspondence respecting it on the table.

SITE OF THE NATIONAL GALLERY—QUESTION.

MR. GRANVILLE VERNON said, since Her Majesty had undertaken to issue a Royal Commission to inquire into the site of the National Gallery, he wished to put a question upon the subject to the noble Lord at the head of the Government. The Committee which sat in 1853 on the same subject felt itself impeded from recommending any sites which it really considered to be the best from a delicacy with regard to the nature of the tenure of those sites. Now he did not wish to trouble the noble Lord to state specifically what instructions would be issued to the Commission, but perhaps the noble Lord would be so good as to say whether the Commission would have full power to propose such a site as they might consider the best adapted to the purpose.

VISCOUNT PALMERSTON: I cannot tell my hon. Friend what the instructions will be, because the Commission has not yet been appointed; but of course it will

be open to them to make such suggestions as may appear to them to be the best to make with regard to the site. I can only repeat, however, what I stated in the discussion of this question, that there are places—such as the Royal Palaces at St. James's, and Kensington Gore, and Marlborough House, which no Government would agree to have converted into the National Gallery, even though they should be recommended by the Commission, and for this obvious reason—that such places are the private property of the Crown.

MILITIA MUTINY IN IRELAND— QUESTION.

COLONEL FRENCH wished to put a question to the hon. Under-Secretary for War, relative to a statement which had been published with regard to the disbanding of the Tipperary Militia. It was stated that the men had refused to give up their arms except on certain conditions, and that they had taken possession of the town of Nenagh, where they used their bayonets and fire-arms, and the troops of the line had to be called in to quell them. By a telegraphic despatch since received, it was stated that the mutiny had been quelled, and the question he wished to put to the hon. Under-Secretary was, whether it really was the fact that the mutiny had been suppressed, but only with severe losses on both sides?

MR. FREDERICK PEEL: I have seen a telegraphic despatch from General Chatterton, which states that everything was quiet in the quarters where the mutiny had taken place. It added that one man had been killed and some ten or twelve wounded belonging to the line, but it does not allude to the losses on the side of the militia.

COLONEL DUNNE: Does the hon. Gentleman intend to go on with the Militia Pay Bill to-night?—because, if he does, I shall call attention to the important cause of this unfortunate occurrence.

MR. FREDERICK PEEL: I hope to pass it through Committee to-night.

CONSOLIDATION OF THE STATUTES— QUESTION.

MR. LOCKE KING, seeing the hon. and learned Member for Suffolk (Sir Fitzroy Kelly) in his place, he wished to ask him whether he intended this Session to bring in the Consolidation of the Criminal Law Bill, which he obtained leave to introduce on the 14th of February last?

SIR FITZROY KELLY: After what has passed in this House on the subject to which the question refers, I think the question should rather have been addressed to the Government. Still, I have no hesitation in answering the question, and I can assure the hon. Gentleman that some of the most eminent members of the Statute Law Commission have been incessantly engaged in the preparation not only of the Bills of which I have given notice, but also of Bills relating to other branches of the law. I have therefore great satisfaction in announcing that the whole of these Bills are at this moment ready to be laid on the table, and they will to-morrow or Monday be proposed to the House of Lords by the Lord Chancellor. It was thought to be only right that these important Bills should be brought in by some member of the Government.

CONSOLIDATED FUND (APPROPRIATION) BILL.

Order for Committee read.

MR. W. WILLIAMS said, this was the first time that the Appropriation Bill had been printed and presented in its proper form. Yesterday the Bill was read a second time; and now the House was called upon to go into Committee; but he would appeal to the right hon. Baronet the Chancellor of the Exchequer to postpone going into Committee until to-morrow. He objected to the Government taking power in this Bill to apply the Votes for the army and navy in any way they might think proper. There were sixteen important Votes relating to the former and twenty-one for the latter, which had all been gone through and discussed in that House, and in passing these Votes they believed they were confining the Government to the money voted; but under the 30th clause of this Bill, the Government would be able to spend any sum of one Vote for another purpose. He should take the sense of the House upon striking out this proviso, which, he believed, would be most mischievous.

SIR HENRY WILLOUGHBY asked the hon. Gentleman the Secretary of the Treasury (Mr. Wilson) or the right hon. Baronet the Chancellor of the Exchequer to explain in what respects this Appropriation Bill differed from those which had been introduced in previous years. The hon. Baronet also complained that under the present system of audit the House was not, until after an interval of two years,

informed of the exact appropriation of the sums which it had voted, and thus its control over the public expenditure was practically destroyed. For instance, last year the House voted a sum of £3,800,000 for the militia. Of this, a sum of £1,000,000 was not expended upon that force, and of its appropriation the House was yet entirely uninformed. It was most important that something should be done to improve our system of audit.

SIR FRANCIS BARING said, it was quite true that not near £3,800,000 was expended upon the militia last year. Under the Appropriation Act the Government, no doubt, had power to apply a surplus under one Vote to meet a deficiency under another; but he apprehended that this was intended to meet the case of small deficiencies, and that it was never contemplated that so large a sum as £1,000,000 should be transferred from one Vote to another—especially when the surplus had arisen in the militia, which was hardly to be considered a military department at all. The militia was a service the supplies for which ought to be voted by themselves, and not mixed up with the general army Supplies. Acting on old constitutional principles, many hon. Gentlemen were favourable to a large militia force, believing that it would enable the country to reduce the standing army. He wished, before concluding, to ask the Secretary for the Treasury when the promised account of the advance from the Civil Contingencies Fund would be produced?

MR. WILSON replied, that if the public accounts had been kept as well during the last twenty years as they had been during the last five or six, there would have been no difficulty in producing the account referred to the day after it had been moved for. The Treasury had attempted to revise the accounts of the Civil Contingencies for a long series of years past, with the view of showing that the whole of the money voted by the House could be duly accounted for; but, after proceeding with the execution of the task for some time, they found that it was an utterly hopeless one and must be abandoned. They had, however, succeeded in accomplishing their object as far as concerned the last ten years, the whole of the accounts for that period had been balanced to a shilling, and he would have much pleasure in laying them on the table to-morrow. With regard to the question raised by the hon. Member for Lambeth, it was quite true the House

had thought fit to entrust the Treasury with the power of applying the surplus of one Vote to the deficiency of another, but only in the same department; and that arrangement had been found of the greatest utility. Indeed, the public service could hardly have been carried on without it. The army and ordnance had this year been united, but the items would be classed under different heads. Thus all those sums which were analogous to the expenditure under the old ordnance department, such as the wages for artificers, charges for barrack furniture, clothing, works, and the like, would form one division; and the surplus under one head would be only applicable to the deficiencies under the same. If it had ever been the rule not to regard the militia as a military service, the last two years had certainly been an exception, for large sums had been granted for the express purpose of rendering the militia an arm of the regular service. As to the supposed sum which had been transferred from the militia Votes, and expended elsewhere, he was not able to give any precise answer until certain accounts had been received from abroad. Meantime, it did not seem probable that £1,000,000 belonging to the militia should have been expended on military departments, seeing that the surplus on the military departments amounted itself to upwards of £2,000,000.

MR. MILNER GIBSON wished to put a question to the hon. Member for Dublin University relative to a Bill on the table connected with considerations of finance. That measure proposed to extend the exemption from the paper duty, now enjoyed by Bibles, Prayer-books, &c., to the educational works used in the University of Dublin; and he wished to know what was to be done with it, and how it was regarded by the Chancellor of the Exchequer? He (Mr. Gibson) had received several communications on the subject.

MR. SPEAKER reminded the right hon. Gentleman that he was discussing a different Order of the Day from the one before the House.

MR. MILNER GIBSON meant to discuss it as a question of finance. One exemption from a particular tax generally gave rise to claims for further exemptions; and the system of granting immunity from the paper duty had lately been enlarged by the Treasury. ["Order!"] He begged pardon, but he intended to observe order. He imagined that any question

Sir Henry Willoughby

affecting Ways and Means, or the income of the country, was perfectly regular.

MR. SPEAKER: The House is now discussing a Bill to appropriate the Votes granted in Supply—a question which has nothing to do with Ways and Means.

MR. MILNER GIBSON thought, with all respect, that they were engaged in appropriating Ways and Means, to furnish the Supplies, and that anything tending to diminish those Ways and Means was pertinent to the discussion. However, he would not press the matter further than to inquire of the Chancellor of the Exchequer and the right. hon. Gentleman (Mr. Napier) what course they meant to pursue on this question of finance.

MR. NAPIER wished, if not irregular, to say that the Bill referred to by the right hon. Gentleman contemplated, among other objects, the exemption from taxation of books of the character which had been described. ["Order!"]

MR. SPEAKER: The right hon. Gentleman must postpone his observations until the Order of the Day comes on to which he is referring.

MR. HENLEY, referring to the remarks of the hon. Member the Secretary to the Treasury (Mr. Wilson), said, he wished to ask in what state the accounts were now, and whether there had been any money appropriated, but not accounted for? because to go back for ten years seemed very unsatisfactory.

MR. WILSON said, he did not at all mean to imply that the Votes previous to the last ten years had been misappropriated. Formerly there had been several Paymasters, and it had in consequence been impossible to trace the accounts; but since there had only been one Paymaster and one office, no difficulty had been experienced.

House in Committee.

Clauses 1 to 7 agreed to.

Clause 8,

SIR HENRY WILLOUGHBY said, that the clause proposed to repeal two Acts passed in the course of the present Session, and he should like to have some explanation of the matter.

MR. WILSON said, that at the beginning of the present Session an Act had been passed giving the Government power to raise £5,000,000 by way of annuities, and a clause was inserted enabling them to apply this money for Supply services. As this money had not been so applied, it was

thought to be the simplest way to repeal the clause of the Act alluded to.

Clause agreed to, as were also Clauses 9 to 29, inclusive.

Clause 30,

MR. W. WILLIAMS said, he intended to give the Committee an opportunity of dividing upon this clause, which contained a proviso giving the Government power to apply the amount granted for one service to the exigencies of another service, so long as it was in the same department. In the case of the army and navy the Comptroller of the Exchequer had no control over the sums voted, except in the aggregate—a power which he possessed in all other cases. The House was engaged night after night in discussing the Votes, supposing that the sums they granted would be dedicated to the particular services for which they were voted. But it was no such thing, the Government paid no attention whatever to the rule. He begged to move that the proviso in the clause which gave the Government this power should be struck out.

THE CHANCELLOR OF THE EXCHEQUER hoped the House would not accede to the proposition of the hon. Gentleman. This clause of the Appropriation Act was drawn up exactly in the form in which it had passed since 1832. Before that time the Government had the power of appropriating the whole of the revenue as one Vote; but since then a stricter practice had been introduced under the auspices of the right hon. Gentleman the Member for Carlisle (Sir James Graham). It was the duty of the various naval and military departments to keep within the limits of the amount granted by Parliament; but in the event of their exceeding in any Vote, it was permitted to the Treasury to allow the excess of any one Vote to go to another. It was, however, found necessary to make some relaxation, and to provide for the separation of certain Votes in what were called the Army Estimates. In this way a division was permitted to be made somewhat analogous to that which formerly existed between the Ordnance and Army Estimates.

SIR JAMES GRAHAM observed, that his right hon. Friend the Chancellor of the Exchequer made him responsible for this proviso. But it should be remembered that the proviso was introduced simultaneously with the strict rule of appropriation. The strict application of the rule, as first

introduced, was found to interfere with the business of various departments, and some relaxation, therefore, became necessary. Having first recommended to Parliament the more stringent rule, he afterwards proposed the relaxation in question. Subsequently to this relaxation another recommendation was adopted, by which a concurrent audit was provided for; and the effect of this was that annually, with regard to the army, navy, and ordnance, an account, vouched by the Board of Audit, was laid on the table of the House, setting forth any excess beyond the Vote of Parliament permitted by the Treasury to be applied in aid of any other Vote. The objection to this account was, that it came too late to be of service. He would, therefore, ask his right hon. Friend whether he had any objection to communicate to the House at the beginning of each Session, before the Votes of the year were brought in, a statement of every case in which the relaxation was asked and allowed by the Treasury, and also a similar return at the close of the financial year? If his right hon. Friend would give that assurance he thought the arrangement would be satisfactory to the House.

THE CHANCELLOR OF THE EXCHEQUER said, it was no doubt desirable that information on this subject should be furnished to Parliament at the earliest possible period. That information, however, could not be given in a complete form till the annual audit had taken place and all the transfers had been adjusted. He did not believe, therefore, it would be possible to furnish the accounts in the manner desired by the right hon. Gentleman; but he had no difficulty in saying that, so far as it was possible, he would lay before Parliament from time to time the assents given by the Treasury to applications for relaxation. He hoped that assurance would be satisfactory to his right hon. Friend.

SIR FRANCIS BARING said, he quite agreed with the right hon. Baronet (Sir J. Graham) that some relaxation must be made in the rule of appropriation, as the Government departments could not be conducted without some small concession of this kind. In reply to the hon. Gentleman the Secretary to the Treasury he (Sir F. Baring) had certainly no positive information to rely upon; but he certainly thought he was justified, from the Government returns themselves, in concluding that the excess of the militia returns had been de-

voted to the army services, and he should be much surprised if it did not turn out that this was the case.

SIR HENRY WILLOUGHBY should like to know what were the actual powers given to the Treasury by the Bill? Did the clause they were now considering give them power to take the money voted, say, for clothing, and appropriate it to works? He doubted whether the power which the Government possessed under this clause was not enormous, and he thought there ought to be some check upon its exercise. He should be glad to know what power the Treasury really possessed under this clause.

SIR JAMES GRAHAM said, he would answer this question by illustrations drawn from two Votes connected with the Admiralty Department—the one being that for the payment of the wages of seamen—a Vote which the House always granted with the utmost alacrity—the other a Vote for naval works, which was generally regarded with some degree of jealousy by the House. Now let him suppose the Vote for wages to be £2,000,000, while the Vote for works amounted to £500,000, and that in the case of the former there happened to be a surplus over expenditure of £100,000, which the Board of Admiralty desired to apply to make up a deficiency in the latter to a similar amount:—In order to effect that transfer the Board of Admiralty would be obliged to make application to the Treasury, setting forth the reasons for the proposal and asking their assent to its adoption. It was true that this adjustment of the Votes was of rare occurrence, but it was also occasionally of necessary occurrence. The Treasury had, however, that supreme control and authority—and if the reasons were found to be satisfactory, permission was given by the Treasury to make the transfer. That result, however, was generally arrived at towards the close of the year, and although the proceedings connected with it were ultimately brought under the consideration of Parliament, yet nearly twelvemonths must elapse before such was the case. Now that, he considered, to be too long a period for Parliament to remain unacquainted with the appropriation, and he should therefore suggest that at the close of the financial year the Government should lay upon the table of the House all the applications which might have emanated from the different public departments for permission to apply the surplus of one Vote to meet

Sir James Graham

the deficiency of another. Full particulars in these transactions would thus be placed in the hands of the House, generally speaking, within a month of their occurrence; explanations with respect to them might be demanded, and they might be censured or approved of as the House should think fit. That mode of dealing with the subject would, he thought, be found to impose a check of as substantial a character upon Ministers as would be required.

MR. HENLEY said, that no one was better, or, indeed, so well acquainted with this subject as the right hon. Baronet (Sir J. Graham), but he denied that such a return would be any check on the practice; for even if the suggestion of the right hon. Baronet were carried out, these applications and provisions would not come before Parliament until the principal Estimates of the year had been voted, because the Estimates of the great services were almost invariably voted before the close of the financial year. If, for example, £500,000 were voted for buildings and works, and that Vote was exceeded by £100,000 in the following year, another £500,000 would be asked for without the House knowing anything of the previous excess. This was no question of crippling a department, because it was a case of work done and money spent, and the only question was, how the money was to be raised. He doubted whether the excess ought not to come before Parliament and be voted as a supplementary Estimate, when the sum exceeded a certain amount. Parliament would then have the opportunity of considering with the Estimates of the year, how far it chose to give a further sum for the object for which the excess had been incurred.

MR. DISRAELI said, the real question was, what degree of confidence was to be placed in the Administration? A certain degree of confidence must be placed in the Administration, whatever rules the House might adopt, and what they had to consider was the degree. The suggestion of his right hon. Friend (Mr. Henley) certainly went to the root of the complaint; but its adoption would be attended with this great disadvantage, that the great body of the Estimates would then be framed upon an excess model. The fear of coming to Parliament with a Supplementary Estimate would lead the Admiralty and other departments to form their Estimates upon a scale greater than they believed to be necessary for the public

service, and it would not be easy for the House of Commons to contend against a system of that kind. He thought that the principle of confidence was a just one, and between the two suggestions of the right hon. Gentleman the Member for Carlisle and the Chancellor of the Exchequer, he preferred the offer which the Government had made. It appeared to him that if the plan of the right hon. Gentleman (Sir J. Graham) were adopted the House might find itself voting away the chief Estimates without knowing the excess which might have taken place; but if, when the Treasury allowed the appropriation of the surplus of one department, a document were placed upon the table explaining the circumstances, such a check might not be complete, but would be to some extent satisfactory, and would be likely to prevent any improper conduct on the part of the Administration. Under all the circumstances, he was inclined to accept the offer of the Chancellor of the Exchequer—namely, that in every instance when the Government thus availed themselves of the confidence reposed in them by the Legislature, Parliament should be informed of it by the necessary record being placed on the table of the House. He should prefer this to the scheme of the right hon. Baronet, and he hoped therefore that, subject to this understanding, no alteration would be made in the language of the proviso.

THE CHANCELLOR OF THE EXCHEQUER hoped the Committee would not be under the impression that there was any doubt as to the general enforcement of the rule that each department kept within the distinct Vote taken on account of it. That was the rule imposed on the naval and military departments, and they were not able to depart from it without express permission from the Treasury. Whenever they were desirous of obtaining permission to apply for the purposes of one department the excess upon the Vote taken for another, they had to make out a special case. A letter must be written showing the grounds of the application, and the general rule laid down by the Treasury was, that the case must be shown to be unexpected and urgent. Of course, the Treasury did not share the particular feeling which might animate the department at the moment; they would consider the matter impartially, and would not give their consent unless a fair and reasonable case was made out. These appli-

cations were made from time to time during the Session and during the recess. With reference to the remarks of his right hon. Friend (Sir James Graham), there would be no objection to lay before the House, as soon as Parliament met, a return of the applications made to the Treasury since the beginning of the financial year by any of the departments, and the cases in which those applications had been granted, together with the whole correspondence, or an abstract, if necessary. That might be laid before Parliament at the beginning of the Session, and a similar return might be from time to time presented; but he thought it would not be desirable to lay before the House each application as it occurred, unless there was some special ground for it. He hoped his hon. Friend would not divide the Committee on the subject.

MR. W. WILLIAMS said, if the right hon. Gentleman would accede to the terms of the right hon. Baronet's suggestion, he would withdraw his proposition. In point of fact, however, if the present system were allowed to continue, it was a perfect farce for the House of Commons to vote certain amounts under certain heads. They might as well vote the whole Estimate for the army in one round sum, and adopt a similar course as to the navy; or they might go a little further, for if the argument of the right hon. Gentleman opposite (Mr. Disraeli) were carried out, there would be no necessity for any Vote at all, and it would be said, "Let us place confidence in the Government, and leave it all to them."

SIR JAMES GRAHAM said, the Chancellor of the Exchequer would perhaps consider the subject, and embody the suggestion which had been made to him in a proviso, to be added to the clause upon bringing up the report.

THE CHANCELLOR OF THE EXCHEQUER was under the impression that he had acceded to the suggestion of his right hon. Friend, and had promised everything which was wished for. He was not at this moment aware that there would be any difficulty in embodying this suggestion in a proviso, and he should take the subject into consideration.

Amendment withdrawn; Clause agreed to.

Clauses 31 to 35 were also *agreed to*.

Clause 36, which provides for the appropriation of surplus half-pay.

MR. W. WILLIAMS said, there was an
The Chancellor of the Exchequer

expression in the clause which he thought most objectionable. It was enacted that if the sum voted on account of half-pay were more than was necessary Her Majesty—that was, the Government—should be empowered to dispose of such overplus to "officers who are maimed or have lost their limbs in the late wars, or such others as, by reason of their long service or otherwise, Her Majesty shall judge to be proper objects of charity." Now, it was discreditable for the House to adopt such an expression. Officers maimed in the service ought to be provided for in a proper manner, instead of being treated in this way, as "objects of charity."

Clause agreed to.

Remaining Clauses agreed to.

The House resumed.

Bill reported, without Amendment.

APPELLATE JURISDICTION (HOUSE OF LORDS) BILL.

Order for Committee read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

MR. RAIKES CURRIE expressed his acknowledgments to the noble Lord at the head of the Government for bringing on this Bill for discussion as soon as circumstances would permit. The noble Lord said, the other night, that compromises were often expedient, necessary, and justifiable. From that general proposition no Member of the House would dissent, but every individual compromise must be judged on its own merits; and we were bound to ask whether each particular compromise was compatible with principle and honour? Agreement, no doubt, was a good thing, but adherence to conscientious convictions, from which important consequences sprang, was still better. He was not going to raise a discussion as to what category the compromise made by the Government came under, but he wished respectfully to observe that the noble Lord held his seat on the Treasury bench by a compromise. The noble Lord was willingly supported by a great body of persons in that House who, though not agreeing exactly in all their opinions, called themselves generally the Liberal party. This Liberal party, at least an important section of it—the bone and sinew of the party—advocated vote by ballot, a large extension of the suffrage, and the entire abolition of church rates. The noble Lord advocated none of those measures, but manfully maintained his

own opinions. The Liberal party long supported the noble Lord in his foreign policy when it was vigorously and continuously assailed, and together with the noble Lord fought the battle of free trade. The Liberal party also remembered, far more than all these things, that when the reputations of experienced statesmen fell scattered around like leaves in autumn, the noble Lord stood firm, nailed his colours to the mast, threw energy into the councils of the Crown, maintained the honour of the country, and restored peace to Europe. Therefore, he was glad by a compromise, which he believed to be honourable to both parties, to call the noble Lord his leader. But to leadership and allegiance correlative duties belonged. A great party could not be knocked down one night and put up another night, whenever it suited the purpose of its leaders so to act. The noble Lord the other night performed an extraordinary manœuvre. Supported by a small band of mercenaries, whom he so designated not from any offensive intention, but because they were persons with respect to whom certain agreeable associations connected with quarter-day would be dissolved if they voted against the noble Lord—supported by this select band, the noble Lord crossed over to the other side of the House, and there, rallying a numerous phalanx, belonging to the Conservative or Tory party, turned round, challenged his own party, and put them to rout. When, next morning, the noble Lord walked over the field of battle, and counted the numbers and examined the bodies of the slain, accompanied by his aide-de-camp, the right hon. Member for Wells—in other words, when the noble Lord analysed the division list, he must have been inclined to say with Pyrrhus, that one more such victory would be his ruin. He hoped the noble Lord did not mean to repeat such a manœuvre to-night. He felt certain the noble Lord could not. The noble Lord had ability and dexterity enough for almost anything, but there was one thing which the noble Lord was told by the highest authority he could not do—namely, serve two masters. The noble Lord must cleave to one and forsake the other; he could not lead the Liberal party in the House of Commons, and do the bidding of Lord Derby, and register Lord Derby's edicts in that House. He had spoken frankly, for, as a real friend of the Government, he was bound to tell them openly what was said by a great

number of people behind their backs. He would now address a few words to the House in general on this question. He felt his own inefficiency properly to bring forward this matter, the importance of which could not be exaggerated. The right hon. Leader of the Opposition was pleased to allude to him, the other evening, as being a desultory and independent Member. It was perfectly true that he sat rather loosely to that House, but he would yield to no one in an earnest wish that the House of Commons should hold a high position in the country and in the affections of the people; for he sincerely believed that the danger which beset and was calculated to overthrow any free Government was its popular assembly losing the confidence of the people. Then how, he asked, could that House maintain the confidence of the people if, on a matter deeply affecting the interest of every subject in the realm, the House refused to give it grave and deliberate attention before a Select Committee, and showed an inclination to huddle up the whole business, and hurriedly to register the edict of the House of Lords? His proposition was a most reasonable one, and he hoped the House would assent to it. All sorts of motives had been attributed to him for taking this course; his right hon. Friend the Member for Wells, for instance, had told somebody, he understood, that he was a monomaniac; he had, indeed, put this notice on the paper without consulting any one, but since he had given notice of it, he had received numerous communications from all quarters; and, if the House would grant a Committee, he would engage that it should be attended by men of the greatest eminence, Judges both of Common Law and Equity, who would show that the Bill contained as much mischief and as little good as could well be embodied in the same space of paper. Surely the House of Commons would not refuse to consider calmly and deliberately a measure which infringed on the prerogative of the Crown, and took away the right which he and everybody else had always hitherto considered to be inherent in Her Majesty as Sovereign of these realms, to summon to Parliament any one of her subjects whom she pleased, whoever he might be, to aid her with his counsel. That was a subject grave enough, not only for a Select Committee, but even for the most protracted discussion. No man could be in a position to give an opinion worth anything at all

upon it without having first carefully studied the subject. But the Bill dealt with another question also of the greatest possible importance. The construction of an appellate tribunal in the last resort required the utmost care and deliberation, but the hasty and offhand manner in which this Bill had been disposed of was so extraordinary that he was completely at a loss to understand it. He had observed the right hon. Gentleman opposite blandly smiling the other night; no doubt he was hugging himself with the consciousness that his enemies were "delivered into his hand." The noble Viscount at the head of the Government seemed to be somewhat in the predicament of the knight in the old ballad, who made a compact with one who should be nameless—a compact rather opposed to the noble Lord's ideas of free trade, and in which the mortal generally got the worst of the bargain. There had been a good deal of talking and skirmishing the other night, but it all ended in nothing. The debate reminded him of one of those battles of the *condottieri* in the Middle Ages, where, after a long day's thumping and banging, all ended in nobody being killed and nobody wounded. None of the speeches except those of the noble Lord the Member for London and the right hon. Baronet the Member for Carlisle went to the point. The lawyers applied themselves to drawing the House away from the real question; just as one might see a partridge fluttering about to draw away attention from her eggs, so the lawyers do their best to lead the House away from the real eggs here. He hoped, however, that there would be a good stand-up fight to-night, and that everybody would speak his mind—as he intended to do. He hoped hon. Members had carefully considered the very remarkable debates on this subject in another place. Did the Bill recommend itself to them by its antecedents? He had heard it stated publicly that Lord Derby had said that in case the proviso of the hon. Member for Malton, saving the prerogative of the Crown, was carried, the Bill might go wherever it pleased; he should not care what became of it. That furnished an important clue as to the real object of the Bill. It was a distinct attempt to limit the prerogative of the Crown. In order to get a clear insight into the antecedents of the Bill it would be necessary to trace its history from the beginning. A short time before the Session began the Government—actuated, no

Mr. Raikes Currie

doubt, by a laudable desire to strengthen the appellate tribunal of the House of Lords—created Baron Parke a peer for life. It soon appeared when Parliament met that a hare was to be started. The first to commence the sport was a noble Lord of wonderful activity, on which age seemed to have no effect, and to whom might be applied—slightly altered, the well-known lines of Gray—

"Full oft within those gilded halls,
When he had seventy winters o'er him,
The Lord Chief Justice led the brawls,
While law and reason danced before him."

He was seconded by a noble Earl who never in his life could resist a bit of mischief, and who, from some reason or other, entered heartily into this question. The Government made a good fight, but were beaten. An observation made the other night by the right hon. Member for Carlisle—that there was nothing new in the world—was remarkably applicable to the whole of this affair. It would seem as though the theory of the ship's carpenter in *Peter Simple*—that everybody would be doing just the same thing as at the present moment 2,222 years hence—had some foundation, and that every thing which passed in the world was merely a repetition of something which had happened before. In Lord Campbell's *Life of Lord Nottingham* would be found the following passage, which would really seem to show that that eminent man—he was a North Briton by the way—enjoyed the privilege of second sight—

"The Chancellor had the sagacity to see the trap laid for the Government, but he had not the address to avoid it. He could not control the fervour of those friends of the Government who, mad on the question of privilege, disregarded all party predilections, and stood up for their own notions of the rights of their order. During these debates the ex-Chancellor and the reigning Lord Chancellor being pitted against each other, the latter suffered severely."

The noble Lord at the head of the Government had spoken of this matter as a comedy which had been played up to the very foot-lamps, and, following up this *curiosa felicitas* of the noble Lord, he would endeavour to describe to the House how he viewed this matter in a theatrical point of view. This was about the *tableau* presented—the Government in a very ridiculous position, Lord Derby committed against the prerogative of the Crown—(not a very pleasant position, he should imagine, for a Conservative leader)—the jurisdiction

of the House of Lords condemned by the discussions which had taken place in that House, and Lord Wensleydale in the distance, in bed with the gout,—perhaps the best off of the whole party. He was glad to avail himself of a happy accident which enabled him to quote past events in order to describe present ones. Most hon. Gentlemen in that House no doubt had read the “Imaginary Conversations” of Walter Savage Landor, and he had come into possession of an extract from an imaginary conversation, not written in the elegant English of Mr. Landor, but containing what might, perhaps, be considered to border a little upon slang, which he would beg to read to the House:—

[Scene, Venice. A Gothic library looking out on the Grand Canal. Two senators seated at a table.]

“*First Senator*: You’re in a fix, and there’s but one in Venice

“Can help you out of ’t, and that I am he

“Full well thou know’st; when rogues on the Rialto

“Are growing seedy they’ve an ancient custom—

“Each draws a little bill and each accepts it,

“And then they spout their paper, and the house

“That takes it is done brown (a house we wot of).

“Nobles may learn from knaves—say, do’st thou twig me?

“*Second Senator*: Alas! too well.

“*First Senator*: Then, mark me, ‘Villagrande,’

“I, too, have run my head against a wall

“Right at the Doge’s power, of which I boasted

“To be the best, if not the sole defender;

“Yet I will curb this curst prerogative,

“But hide the hand that does so. ‘Campobello’

“(Bellow he’s rightly named) doth roar and bluster

“About his ‘*Res decreta*,’ but we know

“’Tis worth the ink that writes it, and no more.

“I want a statute with all forms of law;

“We’ll wrap my dig at the prerogative

“In some sham semblance of a law reform,—

“The very cry you’ve started,—and the Commons

“Will toss their noses to the wind, and open

“Full on the false scent and o’errun the true one.

“Old ‘Campobello’ is the man to do it!

“For well he knows so to embalm a rat

“That none shall nose him. Ah! you hesitate,

“But I have more to offer, and, besides,

“Will find some plaister for your broken pate;

“Two golden rings and twice six thousand ducats

“To oil the legal wheels and set them whirring;

“And they shall whirr and whiz on this suggestion

“Down there below, until the wretch who hears them

“Shall stop his ears, and, bothered by their pother,

“Surrender at discretion. Here’s a plan

“In which I think you trace a master’s hand.

“*Second Senator*: But then the Doge, my lord?

“*First Senator*: The Doge be d—d!

“Sweet ‘Villagrande,’ if you sign this paper

“And do my high behests, I’ll bear you harmless

“Out of this ugly scrape; but if, by Heaven,

“You pause or falter—ere the chimes of six

“Strike on St. Mark’s—I open on the Senate

“And thunder o’er it, till the ‘stones of Venice’

“Turn on their sides to mock thee with their grinning.

“Sign, then!

“*Second Senator* (with great trepidation): I sign!

“*First Senator*: Why, there’s a clever fellow!”

[Exit First Senator with the paper in his pocket.]

“*Second Senator*: The Doge! the Doge!! I fear I have betrayed him!!!”

[Opens the window, gazes on the Grand Canal, shuts the window, and rushes frantically out of the apartment.]

He should be happy to furnish any Gentleman privately with the means of referring to that extract, which appeared to him to be very pertinent to the present case. But to return to the House of Lords, it was not possible to arrive at the second *tableau* without passing through the green-room and seeing what went on behind the scenes. The position of certain parties in that House reminded him of a theatrical entertainment which he had attended, given by his right hon. colleague, in which a country yokel, or, as he would be called in Kent, “chaw-bacon,” fell among persons who hustled him and picked his pockets. Let the House fancy the President of the Council, got up in the true chawbacon guise, thus treated, and then turned out, evidently very uncomfortable, and looking as if he had swallowed something which he could neither digest nor get rid of, and they would have an idea of the result of the Committee. He now came to the second *tableau*, which exhibited everybody complimenting everybody else, including the Lord President, who himself did not appear very comfortable, while his colleagues freely admitted that they were completely puzzled, and did not know what had been going on. All, however, were seen occupied in tossing the Bill down upon the table of that House.

He could assure the House that, if he had appeared to treat the subject with levity, it had been because he wished, in the observations which he felt himself bound to make, to avoid giving anything like offence to any one.

“And if I laugh at any mortal thing,
’Tis that I may not weep.”

Every one knew what the real meaning of the Bill was. It was a measure to settle and limit the prerogative of the Crown,

and that brought him to another curious part of the case. He had some time back put on the paper a notice of a question which he intended to put to the noble Lord at the head of the Government, with regard to the form in which the measure was to be introduced into that House. His attention had been drawn to the subject by what was stated to have been said by a noble Lord in another place. It appeared that Lord Grey stated that—

“He felt himself bound to express his regret that the Government had introduced this measure in a less formal manner than he believed they ought to have done. By the law and practice of Parliament it had been always usual, when the House was called upon to pass a Bill which limited the prerogative of the Crown, to signify the consent of the Crown, and, as he believed that the Crown at the present moment had the power of creating life peerages which would confer a seat in their Lordships’ House, he believed that the consent of the Crown should have been formally signified before their Lordships were called upon to agree to the present Bill.”

Now, he should have imagined that, if it had been necessary to signify the assent of the Crown, that assent would have been signified at the introduction of the measure; but, instead of that, it was only signified at the third reading. Now, it appeared that another noble Lord (Lord Derby) had said—

“Probably many of your Lordships will agree with me that the Crown had no prerogative to waive, and that, therefore, no Royal consent was necessary; and, undoubtedly, if that consent had taken a more formal shape, and had been communicated to your Lordships as a message, I, for one, should have experienced great difficulty in receiving such a message, and in consenting to the adoption of an address in answer thereto which would appear to imply a recognition of that prerogative.”

This was a very remarkable and pregnant declaration. He thought, therefore, that the compliment might be paid to that House of allowing something like inquiry into the subject. What he wished to impress upon the House was the absolute necessity of referring the Bill to a Select Committee; and if the House consented to adopt that course, he had authority for saying that persons would offer themselves to be examined whose authority every Member of that House would respect, and who ought to be examined upon the subject. As regarded life peerages, he did not agree with what had been said by the right hon. Member for Carlisle; he had hoped that no one in this House would desire to extinguish the power of the

Mr. Raikes Currie

Crown to create them. We were all too apt to look upon the phenomena which surrounded us as permanent laws of nature, whereas, in point of fact, they were continually changing. Many opinions of our great-grandfathers appear to us absurd and benighted, so may our own most cherished ones seem to our great-grandchildren. A late Whig nobleman, whom everybody respected, was wont to observe that there were two great prizes which the higher aristocracy of this country did especially covet; one was the garter, the other the lord-lieutenancy. The noble Lord, an experienced judge of human nature, particularly of the class to which he belonged, said that they coveted those great prizes because they were never given to merit. That observation looked very much like irony or satire, but it was nothing of the kind. It might be quite logically and reasonably accounted for. Among the aristocracy the *summum bonum* was not merit—because merit might be, and was, shared with the base-born, the poor, and the outcast—but great political power, high rank, and enormous wealth; and they valued those honours as the test and proof that they pre-eminently possessed these things. Nor were these remarks inapplicable to the general community, for there could be no doubt that, in comparison with continental nations, the people of England did bow in the most prostrate manner, in the first place to wealth, and next to rank. But was that always to be so? Was the world advancing or was it not? No doubt it advanced very slowly; but he was one of those who believed that it did improve, and, without being over sanguine, he looked forward with confidence to the time—be it twenty, fifty, or a hundred years hence—when men would be more valued than at present for moral and intellectual qualities apart from mere rank and wealth. He believed the day would arrive when it would be important to the House of Lords itself to attract brilliant talents, public spirit, virtue, though unendowed with the gifts of fortune. Now, it would be thought a strange thing if Mr. Macaulay were to be made an hereditary Peer, though his works would live as long as the English language, giving pleasure and instruction to millions yet unborn. And that gallant man who lately returned to England after performing the most heroic deeds—the hero of Kars—would he not be an ornament to any assembly? The power, then,

of creating life peerages might remain dormant, but was not one of which he should like to see the Crown deprived, and when they recollected with satisfaction how much younger Her Majesty was than the majority of Members in that House, they would agree with him that the time might come when she might regret the attack now made upon her prerogative, and when her feelings of sorrow might be shared by the House of Lords itself. But, whether life peerages were good or bad, he objected to parting with so important a prerogative of the Crown by a side-wind, and in a manner which left the question in doubt and difficulty. Such was one reason why they ought to refer the Bill to a Select Committee. He now came to what he might call a plunder of the public purse, because everything was a plunder, be the amount £50 or £100, or even as many pence, which could not be justified by necessity. Were these new appellate Judges at £12,000 a year justified by any such necessity? He had letters in his pocket from some of the most learned Judges on the bench, men whose names—if he were to mention them—would command universal respect, all concurring in the statement that hearing appeals only would spoil any Judge. Law, like everything else, was progressive, and to enable a Judge to do his duty it was necessary that he should remain conversant with the practices of the Bar. One of his learned correspondents assured him that he was a different man after the long vacation than when he came off circuit, and that if he were to attend to appeals only he would be good for nothing in the course of two years. Again, one of the highest authorities in that House—one of the most experienced statesmen in the country—had told them that the Bill, if carried, would have the effect of corrupting all the puisne Judges. In point of fact, the Government appeared—but, of course, it was only an appearance—to be angling for the puisne Judges. There were two golden baits in the shape of deputy speakerships, precisely the things which those learned Gentlemen would bite at; for as men advanced in life their great object was to obtain not so much high salaries as a respectable position, dignity, and rather less work. Therefore, another great defect in the Bill, and one which called loudly for inquiry, was that it was likely to debauch the Bench. He now came to what to his mind seemed, however it might strike others, to be the

worst feature of the Bill. It was their duty as a Legislature to raise the tone of public feeling and opinion, which they could do only by speaking and disseminating truth, and by being themselves true men. Yet they were asked by the advocates of the Bill to establish a monstrous sham. If the proposed court were to sit, there ought to be inscribed over it a very short but very expressive Saxon word which he would not mention, but of which they could not fail to be reminded by the monosyllable “sham.” The court was to be called the House of Lords. Did they suppose anybody would be deceived by such transparent humbug? It was to sit not as the House of Lords sits, but during the recess of Parliament, and consist mainly of two Deputy Speakers, who could no more be called an integral part of the House of Lords than he himself. The truth was, the Bill was nothing less than a miserable attempt to stave off the discussion of the great question whether the appellate jurisdiction should remain with the House of Lords. The extraordinary speech delivered by the Solicitor General the other night, containing so many assertions and assumptions, filled him with dismay, and sent him home in a state of mind which he would not describe, but which enabled him to understand what the late lamented Dr. Arnold meant when he said that he would sooner see his sons starve than educated for the Bar. He did not wish to libel that noble and glorious profession, and no doubt Dr. Arnold referred to a passage in *Burke* describing the effect which the practice of the law produced on particular minds. However that might be, he should doubtless now be told that, whatever an ignorant layman like himself might say to the contrary, the proposed court was and should continue to be the House of Lords. That reminded him of a passage in Dean Swift, which he would take the liberty of reading to the House. The Solicitor General maintained that the court was the House of Lords. “Lord Peter,” with scarcely less audacity, asserted that a crust of bread was a leg of mutton:—

“‘My Lord,’ said he, ‘I can only say that to my eyes, and fingers, and teeth, and nose, this seems nothing but a crust of bread;’ upon which the second put in his word, ‘I never saw a piece of mutton in my life so nearly resembling a twelpenny loaf.’ ‘Look ye, gentlemen,’ cries Peter in a rage, ‘to convince you what a couple of blind, positive, ignorant, wilful puppies you are, I will use but this plain argument,—by

—, it is true, good, natural mutton as any in Leadenhall Market; and — confound you both eternally if you offer to believe otherwise!"

Such was the kind of argument with which he expected to be met by the hon. and learned Solicitor General; but, nevertheless, he confidently asserted that the proposed Court could no more be the House of Lords than the three clerks at the table could be the House of Commons, even although empowered by the Bill to sit during the recess, and to exercise certain regulating or taxing powers.

Under all these circumstances he asked the House whether they would give the sanction of an Act of Parliament to this daring infringement of the prerogative of the Crown; whether they would lend themselves to a flagrant job, a wanton and unnecessary inroad on the public purse; whether they would organise a machinery for the corruption of the Judges, — one which at all events must throw suspicion and distrust upon that venerable body; whether they would deliberately establish and inaugurate a solemn sham? If, indeed, they were minded to do all these things, he entreated them to adopt at least the form of an inquiry beforehand.

"Affect a virtue if you have it not."

If they were really prepared so to legislate, let them, he besought them, if only for decency's sake, assume the forms of deliberation; let them grant his Committee. The worst that could happen would be the postponement of the Bill till all had had time for reflection. Then, let bygones be bygones; let them bury in silence and oblivion the miserable antecedents of this miserable measure; treading lightly and walking backwards with something of filial shame, let them cover the frailties and eccentricities of a venerable assembly in another place. Then, at the beginning of another Session, the Commons House of Parliament might proceed with calmness, with dignity, and with that earnest and truthful search for the more excellent way which the subject so entirely demanded, to apply itself to one of the noblest and gravest questions that could occupy the councils of a free people — how best to construct, build up, and establish a High Court of Appeal, appeal final, and in the last resort; to determine the rights, privileges, and property of every corporate body, and of every individual in the kingdom. He trusted that they might rise to the height of their great argument, that

Mr. Raikes Currie

they might approach the question in a spirit of wisdom and caution, but, at the same time, firmly and fearlessly, not seeking abstract theoretical perfection by any unnecessary innovation, but, on the other hand, throwing away with scorn the bugbear of a prescriptive jurisdiction, because, digging down to the roots of the constitution, they found amid its gradual growth and its hoar antiquity, that this boasted jurisdiction of the Lords was no part and parcel of the ancient trunk, but a fungus vegetation of yesterday, a mere parasitical excrescence; or, to drop all metaphor and to speak the sober truth — that in the Life of a Commonwealth it was nothing more nor less than an ephemeral usurpation. The hon. Member concluded by moving that the Bill be referred to a Select Committee.

MR. EVELYN DENISON seconded the Amendment. His observations would, he feared, be in painful contrast to the amusing speech of so distinguished a performer as his hon. Friend (Mr. R. Currie), but, as he was suffering from indisposition, which would, perhaps, prevent his addressing the House at a later period of the evening, he should at once trouble it with a few remarks. His hon. Friend had spoken of a compromise. His (Mr. E. Denison's) habits of mind were not in favour of violent measures or extreme opinions, and a reasonable compromise upon a matter of difficulty would be to him rather a recommendation than an objection. Upon examining this subject, however, he could not find in it the elements of a compromise at all. It involved two questions perfectly different and distinct — the prerogative of the Crown to make Peers for life, and the reform of the appellate jurisdiction. Now, it appeared to him that certain parties, having involved themselves in difficulties, had turned round upon an absent one who ought to have been ably represented, and had said, "Let us solve the difficulty by" — doing what? Not by making a compromise, but by totally extinguishing and destroying the prerogative of the Crown to make life Peers; because that was the real effect of this measure. The House of Lords chose to enter upon a contest with the Crown upon the subject of life peerages, and made itself the judge in its own quarrel. That was a very convenient course when you were quite sure that the judgment would be final, and that there would be no appeal from it; but in this case, no sooner was the judgment

given than the House of Lords themselves disturbed it by sending that measure to the House of Commons, and so calling on that House to be umpire between themselves and the Crown. He had no pretension to undertake the office of arbitrator—it required great calmness, gravity, and consideration properly to discharge the duties of arbiter in a quarrel of such importance; but as he had read the whole of the Blue-book, and also gone into the entire history of this transaction, he would call the attention of the House to a few particulars, which might assist it in forming its judgment. One circumstance which had struck him most forcibly was the extraordinary contradictions and shiftings of ground which had been exhibited in the course of this affair. In the first instance, when the power of the Crown to grant life peerages was questioned it was announced, with the utmost gravity, in the House of Lords that that House was never more competent to discharge the duties which it was required to fulfil than at the present moment. No sooner, however, was that question decided than it was discovered that the appellate jurisdiction of the House of Lords, instead of being in a satisfactory and efficient, was in a most unsatisfactory and very weak and rotten condition; so much so, that it was held by the House of Lords themselves that it was not capable of improvement or restoration by its own power, but that they must apply to the other branches of the Legislature to give it strength. It was said in the Upper House that it would be devoured by a flight of lawyers, and this remark was made at a time when there was no question but of the introduction of a single Lord from the regions of Wensleydale. In a short time, however, it was proposed by the very author of these predictions, that, under this Bill, a whole covey of lawyers should be introduced. These were both striking contradictions; but there was a third more remarkable still. It was said that the appellate jurisdiction of the House of Lords was the very essence of the peerage, that it was inherent in the hereditary principle, and very unfavourable contrasts were made between an hereditary Peer and a Peer for life. One noble Lord of great wit, looking to the extreme east for a simile, said that a Peer of the latter class would, after all, be only a “second chop” Peer. Yet, no sooner was the question of the creation of life peerages settled than a noble Lord

proposed to make not one, but two or three “second chop” Peers, and to pass over to them from the great body of the Lords this appellate jurisdiction, and to call them the House of Lords, and that they should sit during the recess, exercising the full power and authority of the House of Lords. Really, if a Peer for life created by the Crown—the fountain of honour—deserved such a designation as that which he had quoted, he should like to know what term might not be applied to such a Peer, manufactured with the assistance of the rude hands of the Commons? These certainly struck him as remarkable contradictions, and gave him rather an unfavourable impression of the judgment with which this contest had been conducted. It seemed to him that passion rather than discretion had presided over their councils. He would not enter minutely into the legal question of the right of the Crown to create peerages for life. The hon. and learned Member for Plymouth (Mr. R. Palmer), although favourable to this Bill, had placed the right of the Crown to create life Peers in a light that was quite unanswerable. If the Crown could grant a peerage to A for life, with remainder to B and his heirs, it surely could grant a peerage to A for life simply. With regard to the proposed tribunal, what did the proposed tribunal really amount to? Two Peers for life were to be made, to be selected from the body of the Judges; but the inducements offered to men to fill a rank inferior to that of the hereditary Peers were so inadequate, that men of active minds, and in the full vigour of their faculties, would not take them—they could only tempt members of the judicial bench who were past their vigour, both of body and mind, and whose law would soon become rusty. Yet these life Peers were to have the power of reversing the decisions of the fifteen Judges of the realm who were in the full exercise of their faculties and in the constant practice of the law. Such a Court of Appeal as that would be simply ridiculous. He would, before he sat down, address a few words to the noble Lord at the head of the Government on the position in which that—the Ministerial—side of the House was placed by this Bill. They had arrived near the close of a Session which had been successful and honourable to the noble Lord's Administration. They were proud of the noble Lord as their leader. He had not only

been ever foremost in the battle, but had taken more than his share of the daily drudgery of the trenches. The noble Lord, he hoped, was satisfied with his soldiers. Then let him not suffer this miserable Bill to come between them and him at the close of their campaign. The noble Lord's time was fully occupied, but if he could find a moment to look at the division list of the other night it was worthy of the noble Lord's consideration. It showed a large array of his usual supporters who had voted against him on this particular question. They could not enter into that contest with the noble Lord at the end of the Session without great regret and infinite annoyance to themselves; and he ought to spare them that painful necessity. He put it entirely to the good feeling of his noble Friend, and would remain silent on the possible result of driving them to extremities. Let him reflect that there was nobody who said a word in favour of this Bill, in public or in private. In private, indeed, it was criticised very freely. He (Mr. E. Denison) had heard it described by Gentlemen on the other side, as a very bad Bill, which, nevertheless, they were under an obligation to support. He had heard it condemned by a gentleman of the highest authority in even stronger terms—as being, in fact, the very worst Bill that had been introduced into the House of Commons for the last twenty years. That was also his own opinion of it. The noble Lord ought, therefore, hardly to force it through the House against the wish of 140 Gentlemen, many of whom were his warm supporters. An opportunity for inquiring into the matter ought at least to be afforded them. That was the reasonable and moderate proposition which had been made that night; and he felt confident that when the noble Lord came to consider the objectionable nature of this measure, and the position in which it would place him in relation to his supporters, he would not persevere any longer in the course that he had thus far pursued. All they asked was, to be allowed to close the Session and return to their homes with satisfaction and contentment. He trusted that the noble Lord would spare them the painful feelings which a further conflict on this measure must excite, and would accede to the request for inquiry.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "the Bill

Mr. Evelyn Denison

be committed to a Select Committee," instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

Mr. MALINS said, that in the course of a discussion in that House, which arose in August last, on a subject not immediately bearing on the appellate jurisdiction of the House of Lords, he drew attention to the grievous evils connected with the exercise of that jurisdiction. Since then the accuracy of the views that he had expressed had been established by the evidence taken before a Committee of the other House, and had also been adopted by the House of Lords itself, as testified by the sending down of the present measure. The intolerable delay and expense attendant upon appeals to the upper House being universally acknowledged, he would pass them by without further remark; but he wished to make a few observations on the nature of the existing tribunal. Now that public attention had been so much turned to the administration of justice, the appellate jurisdiction of the House of Lords, exercised by a single Judge, even though by a Judge like Lord Eldon, would not be endured any longer. From the year 1832 downwards, owing to the frequent changes of Ministry following the Reform Bill, there had been collected in the upper House a Lord Chancellor and some two or three ex-Lord Chancellors, so distinguished for ability and learning that their like would never, perhaps, be seen again. The consequence was, that the country had been perfectly satisfied with the administration of justice in an assembly adorned with the presence of three or four such noble and learned Lords. Since then, however, the state of things had gradually changed. For various reasons those eminent men had discontinued their attendance. Lord Lyndhurst was excused by his advanced age, and Lord Brougham was rapidly approaching the period when he could claim the same privilege. Lord St. Leonards, too, although as full of zeal and activity as ever, had not been present to hear appeals during the present Session. The result was that for a large portion of last Session it had been impossible to secure the attendance of more than two law Lords; in the present Session they had never had more than two, and the number had even dwindled down to one. Such a state of things was intolerable. The question arose, then, what was to be done? It was universally

admitted that some alteration must take place, and the question was, whether the House of Lords were to retain their present appellate jurisdiction or not. He, for one, should have rejoiced if the House of Lords had consented to relinquish that jurisdiction; but they had determined to retain it; and, although he could not concur in their decision, many distinguished Members of the House of Lords, and many gentlemen of great ability and experience out of that House, thought it essential to the maintenance of the position of the House of Lords that the appellate jurisdiction of that tribunal should be retained. He understood, however, that by the House of Lords was meant the House at large, and as it was well known that their appellate jurisdiction had devolved entirely upon learned Lords, he was unable to understand what connection the maintenance of that jurisdiction had with the position of the House itself. The question the House of Commons were now called upon to determine was what was to be done? Would any man say it was right or proper that the existing state of things should be allowed to continue? At present the Lord Chancellor was sitting alone to hear the most important appeals; and could anything be more ridiculous than to call such a tribunal the House of Lords? There might be some concealed reason, but he could not imagine any substantial reason, for retaining such a system. If he thought there was any reasonable prospect that the House of Lords would part with their appellate jurisdiction, and consent to transfer that jurisdiction to a properly constituted ultimate Court of Appeal, he would vote against the second reading of the Bill, and in favour of the Amendment. He confessed that he had never given a vote that had caused him so much anxiety, and he wished it to be fully understood that he did not give his vote for the second reading because he was at all enamoured of the Bill, but because the evil being great and pressing, he did not see any better remedy available than that which was afforded by this measure. They were now approaching the end of the Session, and if the Bill were referred to a Select Committee it would be virtually "shelved." It could not be expected that the number of law Lords would be increased next year, or that the House of Lords would consent to part with their appellate jurisdiction; and he, therefore, thought the best

plan was to endeavour to effect some improvement, so far as it could be accomplished by this measure. Let the constitution of the ultimate Court of Appeal be what it might, they must remember that the rights, privileges, and liberties of all might depend upon it. There were three principal objections to the appellate jurisdiction of the House of Lords as it at present existed. The first was, that as the House could only sit as an appellate tribunal during the Session of Parliament, great delay was occasioned; and the Bill proposed to remedy this evil by enabling the appellate Court to sit throughout the judicial year. The expense of proceedings before the House of Lords was also a ground of objection; but that expense would be materially reduced by this measure. The third objection was that the presence of only one law Lord could be secured in the House of Lords when it was sitting in its judicial capacity; but this Bill would secure the attendance at every appeal of not less than three law Lords. It had been said that by this measure a direct blow was struck at the prerogative of the Crown, because it authorised the creation of peerages for life; but it was a complete delusion to suppose that the Bill would in the slightest degree fetter the prerogative of the Crown. The Crown could create as many Peers for life as it might deem fit; but he thought it must be admitted that the House of Lords constituted the proper tribunal to decide who were members of their own body, and that House had decided that a Peer for life was not a Peer of Parliament. How, then, would this Bill interfere with the prerogative of the Crown? It provided that the Crown might create a limited number of Peers for life who should be Peers of Parliament. But that provision did not limit the prerogative of the Crown; in fact, it left the prerogative just where it was before, and merely provided that, with the consent of the House of Lords, a certain number of Peers created for life might have the privilege, which they did not now possess, of sitting in that House. There was a general concurrence of opinion in the House that the court of appeal, whatever it might be, should consist of at least three judges, and in that opinion he agreed. The noble Lord the Member for the City of London and the right hon. Gentleman the Member for Carlisle (Sir J. Graham) seemed to think that Peers

for life would not be on a footing in power to that occupied by hereditary Peers ; but he believed they were mistaken in that view, and that there would be no more distinction between life and hereditary Peers than there was between Scotch and Irish representative Peers and those who sat in their own right. It would be for the advantage of the public and of the profession to which he belonged, if the appellate jurisdiction remained with the House of Lords, that these peerages to some extent should be for life and not by inheritance. The right hon. Baronet the Member for Carlisle had remarked that the profession of the law was as profitable now as it ever had been. But he (Mr. Malins) ventured to assure him that if he would inquire he would find that the recent alteration in the law, however beneficial to the public generally, had not been so to the Bar, and that the income of both juniors and leaders had been considerably diminished. Undoubtedly the profession of the law generally did not yield such incomes as would provide a sufficient number of men able to sustain the honours of the hereditary peerage. Now, it was essential that there should be men of the legal profession in the House of Lords, for it would be a calamity of no common kind if there should be left only the Lord Chancellor as the representative of the legal profession in that House. Though it was sometimes said there were too many lawyers in the House of Commons—and perhaps so said correctly—yet how could they expect to deal efficiently with legal questions if they had no lawyers of experience to guide them with their opinions ? But if their presence was essential in the House of Commons, how much more so in the House of Lords ? At the present moment there were only four or five of the legal profession in the Upper House, three of whom were above seventy years of age, and in such circumstances was it not necessary to make provision for the presence of a sufficient number of law Lords ? In this point of view it seemed to him important that Parliament should concede to the Crown the power of creating a certain number of Peers for life who should be entitled to seats in the House of Lords ; and therefore he supported the present Bill as a practical measure, though he would gladly have seen a better remedy provided. A good deal had been said about retaining the appellate jurisdiction in the

Mr. Malins

House of Lords ; but, really, when they found that this court was to sit when Parliament was not sitting, and that it was to consist of a particular body of persons, the most staunch friends of the principle of appellate jurisdiction would have to admit that in substance the thing was gone. When the public knew that in November, December, and January there were three law Lords sitting to hear appeals, well knowing that Parliament was not sitting, they would say, " This is not a House of Legislature, but a court of justice." They were told that they ought to have more information ; but what further information did they want ? No information was required as to the imperfections of the present system ; he was sure most people thought it would be desirable that the House of Lords should give up the jurisdiction they now possessed ; there was at present no prospect that they would consent to give it up ; but if in a few years they felt that the body constituted by the Bill was a distinct body, they might be induced to part with in name what they had already parted with in substance. Was there not a probability that the Lords would gradually, by gentle degrees, be induced nominally to give up that which they had already actually and substantially given up ? The Bill was a great advance in this respect—that it secured the attendance of a proper number of competent Peers ; because he took it for granted that the noble Lord in filling up the offices about to be created would have nothing in view but the due administration of justice ; he did not expect that any jobbery would take place. He entirely objected, however, to that part of the Bill which limited the choice of the Crown in filling up these judicial offices ; and he had given notice of an Amendment in Committee for its removal. He agreed with the right hon. Baronet the Member for Carlisle that the Government ought not to have it in their power to hold out inducements of those appointments to the puisne Judges. The chiefs of the common law courts were commonly selected from the Bar ; and although Lord Cranworth had held a judicial office before his appointment as Lord Chancellor, yet five Lord Chancellors out of six were also chosen directly from the Bar. What an absurdity would it be to allow the head of a tribunal to be so chosen, while the inferior judges could only be selected from

the holders of judicial offices ! There could be no reason for the exclusion of the law officers of the Crown. He strongly objected to this restriction as unnecessary, and even the Solicitor General, the only witness who recommended it to the Committee, did not, he believed, adhere to the opinion he then expressed. There were some other parts of the Bill to which he also objected. [*Ironical cheers.*] He understood that cheer to mean that his was, after all, but a faint support of the Bill. He admitted that he thought something better might have been done, but, considering the magnitude of the evil, and the necessity for an immediate remedy, which this Bill provided, he could not support the proposition to get rid of it by sending it before a Select Committee.

MR. CARDWELL said, he was anxious to join his voice to those who made the moderate and reasonable request that before they committed themselves to irrevocable legislation on this momentous question a pause should be allowed for inquiry and investigation. What were the circumstances usually held to constitute a case for a Committee of Inquiry ? When for a great and admitted grievance a remedy was proposed which even its advocates declared to be imperfect and unsatisfactory, the course adopted by this great inquest of the nation was to pause and inquire, and, through the agency of a Committee, to obtain the information necessary to enable them to arrive at a wise conclusion. What were the circumstances of the present case ? At the latest period of the Session, at the time of the introduction of the Appropriation Bill, a measure had been sent down from the other House dealing with the constitution of the other House, with prerogatives of the Crown, and with the rights and interests of every member of the community. They had been asked why they were so anxious to defend the prerogatives of the Crown ; but it was one of the privileges of the free Government under which they lived that no man could remain an adviser of the Crown who did not enjoy the confidence of the popular branch of the Legislature, and it followed as a corollary from that position that the prerogatives of the Crown were part of the inheritance of the people, and must therefore be faithfully guarded by them. The hon. and learned Gentleman who spoke last (Mr. Malins) said that the Bill did not limit the prerogative of the Crown: no, because according to him there was

no prerogative to limit. No one disputed that the Crown could create life Peers, but it was a great question whether or not Peers so created could take their places and vote as Members of the House of Peers. With that question the Bill before them dealt, and if it dealt ambiguously and uncertainly with it, the reason for inquiry was so much the stronger. The hon. and learned Gentleman had himself furnished them with other and abundant reasons for deliberation. The Lords, in the hon. and learned Gentleman's opinion, did not understand the Bill ; and their determination not to part with their judicial *status* was his reason for supporting the Bill which took that *status* from them. The hon. and learned Gentleman stated that the House of Lords had passed the Bill for the purpose of preserving their appellate jurisdiction ; yet he also said that this very Bill did away in fact and substance with that appellate jurisdiction. If there was such doubt and contradiction upon the face of the Bill, even to the apprehension of its supporters, surely time and opportunity for investigation should be given before the House of Commons gave it their sanction. The hon. and learned Gentleman had given notice of an Amendment to strike out one of the most important provisions of the Bill—that applying to the persons from whom the new tribunal was to be selected ; and there were also other portions of this short Bill to which he objected. The advocates of the Bill had, indeed, much reason to exclaim, after hearing the hon. and learned Gentleman's speech, " Save me from my friends !" while those who were less favourably disposed towards the Bill found in it additional reasons for demanding more time for its consideration. Under what circumstances had this Bill come down to the House, and how had the Bill been received in debate ? Upon the Opposition side of the House but little had been said, and silent votes had been given in favour of the Bill. Upon that (the Ministerial) side of the House the strongest speeches and the most earnest votes had been given against the second reading. As yet the guardians of the Queen's prerogative in that House had taken no part in this discussion. He mentioned this with pleasure, for the demand for more careful inquiry was so reasonable that he hoped the Government would see the wisdom and propriety of consenting to it. Again, what had been the statements made by the sup-

porters of the Bill? What Member who had spoken in its favour had failed to condemn it. The Attorney General spoke of it as a mode of getting out of a difficulty. The hon. and learned Member for Plymouth (Mr. R. Palmer) described the Bill as weak and unsatisfactory in its details, and said that if the Bill passed, appointing only two Judges, whose salaries did not exceed those of the puisne Judges, it would be a miserable failure. The other hon. and learned Member for Plymouth admitted that the Bill was capable of improvement. The Solicitor General wished that its basis was larger, and reserved himself for Amendments in Committee. These were the speeches in favour of the Bill. When they heard it so "damned with faint praise," not by one, but by all its advocates, was it not a serious warning to the House to pause? Ought a measure and so important a measure, for which no more could be said, to be hurried through the House at the fag-end of the Session? What was it, indeed, that they were going to do? Law reform was greatly demanded by the public, and the House of Commons were devoting a great deal of time and attention to the subject. What was the keystone and head of the column but the constitution of that appellate tribunal to which all legal cases were taken, and the decisions of which were themselves the models and the unwritten law by which all the inferior tribunals were guided? The House had delayed one measure of law reform on the ground that there was no use in going on with it until Parliament had settled the constitution of the final Court of Appeal. That certainly was not an argument for passing the present Bill in haste, but for making that Court of Appeal as perfect as possible, and for carefully considering every step for reconstituting it. He would ask the House to remember what was the present situation of the supreme appellate jurisdiction of the country? At present there were two Courts of final Appeal—the Committee of Privy Council and the House of Lords. Was it wise for any community to have two Courts of final Appeal? or, rather, was it not a question for the House of Commons to consider whether it would be wise to maintain two Courts of Appeal, and whether it would not be possible to create one Court of Appeal, composed of all the wisdom of the law and conciliating all the confidence of the public? The Court that gave universal satisfaction, not one of whose decisions had been com-

Mr. Cardwell

plained of—the judicial Committee of the Privy Council—was entirely ignored by the Bill: in truth, as it seemed to him, the Bill evidenced a future intention of entirely getting rid of that tribunal. What ought to be the general principles of a first tribunal and of a tribunal of appeal? Was it not manifest that the principle of a first tribunal was the great individual responsibility of the Judge, and of the Court of Appeal, that it should embrace the collective wisdom of the wisest and most experienced Judges? If these two principles were sound, he would ask the House to consider the state of the tribunals of the country as they would be left if this Bill was passed. Take a case in equity. A case opened in chambers was adjourned into Court, and heard by a Vice Chancellor. An appeal lay from the Vice Chancellor to the two Lords Justices sitting with the Lord Chancellor. From their decision an appeal then lay to the tribunal in the House of Lords, proposed to be constituted by that Bill, where it would be reheard by three Judges, one of whom (the Lord Chancellor) was one of the very Judges who had heard the matter in the Court below. Here were four stages of appeal, constituting an amount of vexation, anxiety, and expense which, if it were premature to condemn, were at least matter for most reasonable inquiry. [Mr. MALINS: There is no appeal from a Judge in chambers. The case is adjourned from chambers.] Then take a case of common law—here the matter was still worse. The matter was first tried before one Judge, and was then heard before a full Court. It was then heard in the Exchequer Chamber, and thence removed to the House of Lords. Was it not matter most worthy of careful investigation, whether all these appeals were necessary for the due distribution of justice, or whether they were not accompanied by an amount of vexation and expense upon the suitor, from which it was the duty of that House to relieve him? The appellate tribunal was to be composed of the Lord Chancellor and the two Deputy Speakers—a court of three. That was the number of the Judges in the Court of Equity, from which the appeal was brought. Take the common law appeal. The Queen's Bench might be unanimous. Their decision might be affirmed by the ten other Judges in the Exchequer Chamber, and from the whole body of the common law Judges the appeal would be to the Lord Chancellor and the two Deputy Speakers

sitting in the House of Lords. Was that obviously a wise and practical arrangement, or did they think that a plaintiff who had had the opinion of the fifteen common law Judges in his favour would be satisfied if their decision were reversed on a final hearing before the three Judges of the appellate tribunal, not one of whom might have practised in or presided over a common law Court? There were a number of other questions, all of the most important practical bearing, and every one of which not only deserved, but ought to command the most careful inquiry on the part of the House. There was, for example, the question of Scotland. The Dean of Faculty, the Lord Justice General, a most able man, with whom they were well acquainted as a Member of that House, and other influential persons, represented that provision ought to be made for Scotland by this Bill. Yet no provision was made for that subject by this Bill; and, surely, it was a matter well worthy of consideration. Then, again, as to India and the Colonies, he would submit it was a grave question, whether something might not be done to alter the state of the law of appeal as it affected those great countries. There had been also a petition presented to that House from a person of great weight and authority—Lord Wensleydale—which deserved consideration. It was not the habit of that House to deal lightly with the interests of private individuals, when it was represented their interests would be affected by public legislation, and certainly in this case that petition was well deserving of consideration. Did the House, by proceeding at once with this Bill, intend utterly to reject that petition? He would remind the House that the whole subject to which the Bill referred had been considered at length in another place, and occupied so much time that it was only now, at the close of the Session, that it had been brought under their attention. The hon. and learned Member who spoke last had said, that this was a matter for the House of Lords, as it altered and affected its constitution; but he (Mr. Cardwell) said, it was a matter for the House of Commons, as it affected the fortunes, the property, and the wellbeing of all the Queen's subjects. Then, was not that a strong argument in favour of a deliberate minute inquiry on the part of the House of Commons into that which had occupied the attention of the other House for so long a period? When it was stated by the last

speaker that it was necessary to pass this Bill, because the House of Lords would consent to no other, he would observe that there was another consideration which should not be lost sight of. Judging by the terms in which the hon. and learned Gentleman had spoken of the appellate jurisdiction of the House of Lords, of its imperfect constitution and consequent working of mischiefs, and that it was necessary for something to be done, he (Mr. Cardwell) did not believe the House of Lords would offer an impregnable resistance to any wise measure of reform which had been well considered and well supported by the House of Commons. So far from feeling the force of the implied threat of the hon. and learned Gentleman, he drew a completely opposite inference. The true conclusion was, that the exigencies of the case were such, that not only the House of Commons, but the House of Lords also, would feel themselves called upon and obliged to adopt some wise and deliberate legislation on the question. But, if the House was to be called upon to give its sanction to a mere stopgap measure, which would be regarded as its opinion of what was a reform adequate to the occasion, then a pretext would be furnished for an allegation, that all the mischiefs to which the hon. and learned Gentleman had referred had been cured by this Bill, to which the House of Commons had given its concurrence; and it would be remembered against them, that an appeal made to the House of Commons to take time for a deliberate inquiry had been overruled; that they had precipitately adopted a crude and imperfect measure, strongly condemned on the one hand and faintly supported on the other; and their own act of precipitancy would be the answer given to any future demand for further measures of improvement.

MR. WIGRAM said, he did not see any necessity for referring this Bill to a Select Committee, for he did not recollect any subject discussed in that House on which so much information appeared to have been generally attained. Every speaker, including the right hon. Gentleman who had just spoken, appeared to be acquainted with the details of the subject, and well qualified to deal with it. He gathered from the speech of the right hon. Gentleman, that we were not to touch the appellate jurisdiction of the House of Lords until we had reviewed the whole system of our jurisprudence, and adapted a Court of Appeal to it. But if all collateral ques-

tions were to be discussed before we dealt with that of the Court of Appeal it would be years before the question was settled. The subject would get into the same unfortunate condition as the proposed reform of the Ecclesiastical Courts. Year after year, a reform had been promised in those Courts, the imperfections of which were admitted on all hands; but immediately any specific remedy was suggested, so many objections to it were raised that the evils which all admitted remained untouched. It was from an earnest desire to get rid of an admitted evil of magnitude in the present constitution of the Court of Appeal that he should give his assent to going into Committee on this Bill at once. Many hon. Gentlemen had been led astray from the main question. The Bill contained one leading point and several details, and those who were ready to concur in the main point, should not hesitate to go into Committee and consider the details. The main point proposed was the creation of two more salaried officers in the House of Lords, and there, in his apprehension, the principle of the Bill stopped. As to the question whether the appointments were to be confined to persons who had filled judicial offices, or were to extend to the profession at large, that was a matter of detail for consideration in Committee, and he was himself prepared to leave the appointments open to the profession at large. The question of salaries would be easily adjusted in Committee. The question of life peerages had nothing to do with the principle of the Bill. It, indeed, gave power to Her Majesty to create certain life peerages. But it would not be necessary that the new judicial officers should be made life Peers; and it was matter of detail whether to retain this power. The only other matter of detail was whether the judicial department of the House of Lords should sit during the vacation of Parliament; and that was open to consideration. He thought the most convenient course would be to modify the clause and to provide that the House of Lords might, if it thought fit, appoint a Committee to hear appeals, with authority to sit during the recess. The Bill only intended to supply the deficiency of Law Lords, which by aid of the retired Chancellors had, until now, constituted the Court of Appeal in the House of Lords. But the object of the opponents of the Bill evidently was to abrogate the appellate jurisdiction of the House of Lords altogether.

Mr. Wigram

ther. To that he was entirely opposed; and he was of opinion that it would be far better to improve the existing tribunal of the House of Lords, than to create a new Court of Appeal. As to transferring all appellate jurisdiction to the Judicial Committee of the Privy Council, he thought hon. Gentlemen were carried away by the reputation of the existing Committee of the Privy Council. He did not wish to say anything disrespectful of that Court during any period of its existence, but he had known that tribunal from its very commencement, and it was a mistake to suppose that it gave the same satisfaction during the first years of its existence that it did now. The real fact was, that its reputation was coincident with its being joined by a right hon. Gentleman, to whom allusion had often been made in these debates, who, on leaving the Bar, gave his assistance to the Judicial Committee of the Privy Council, and with the aid of his eminent abilities the decisions of that body had since given great satisfaction. Besides which, they had had the aid of the Lords Justices, two most eminent Judges, and of Dr. Lushington. Now by this Bill it was proposed to do with the House of Lords what was done when you constituted the Judicial Committee of the Privy Council. The old Committee of the Privy Council gave dissatisfaction, and a remedy was applied by an Act of Parliament which constituted the existing court, which had been so lauded. If the same good fortune attended a new constitution of the House of Lords the same result would follow. But everything in each case depended upon the working of the Bill by the Government, and the appointments they made. They should select the best men—those whom the country and the profession considered the best. If the appointments were made from political considerations or private feeling—if the very best men who could be found were not appointed to these situations—this scheme and every scheme would prove worse than useless. He should assume with regard to this Bill, as he must, that the Crown meant to exercise the power given to it in the best manner that it could, and he should vote for going into Committee upon it. In Committee he should suggest that the House of Lords be asked to delegate its judicial functions to a Committee of their body, who should hear appeals in the same manner as the Judicial Committee of the Privy Council. Reserving to himself full liberty with re-

gard to the details of the Bill, he should support the Motion for going into Committee.

MR. GLADSTONE: I hope the House will excuse me if I attempt to detain them for a very few moments on a question of an interest and importance so extraordinary as that now before us. I have to regret—although this may be a pledge to the House that I shall not long occupy their attention—that, owing to indisposition, I have been prevented from hearing many of the most effective speeches which have been delivered by persons intending to object by their votes to the Bill now under consideration. I have, however, been fortunate in hearing several speeches delivered by men of great eminence in favour of the Bill; and, as an opponent of the Bill, I am bound to say that I have every reason to be satisfied with those speeches, and that, if any doubt had remained on my mind with respect to the inexpediency of proceeding with a measure of this character under present circumstances and at this time, the speeches which I have heard from eminent Members of the legal profession, who thought they were speaking on behalf of the Bill, and who intend to support it with their votes, would have sufficed to remove the very shadow of such a doubt. I take the speech with which the hon. and learned Attorney General introduced the Bill. He ran over the scale from top to bottom, reciting all the objections which might be urged against it; but he did not attempt to extenuate the force of one of them—he did not enter into any reasoning or statement of facts to show that any one of them was unfounded or exaggerated—but to one and all he replied by declaring that the present evil was vast, intolerable, and insufferable; that he had nothing else to offer but this Bill, and that the House had no option but to pass it. I am bound to say that I do not think the House of Commons is reduced to such a sorry pass as that when a question of this kind is presented to it, touching most nearly the very foundations of one House of Parliament—touching most delicate matters with respect to the prerogative of the Crown—and also involving most important topics with respect to the administration of justice—I say, when such a question is presented to the House at a time when the Appropriation Bill has begun to run its rapid course, I do not think the House is reduced to such a pass that every reason is to be confuted, every

authority to be silenced, every argument to be set aside, and every objection to be met by the simple statement that the present condition of things is intolerable, and that the House has no choice but to accept what is offered to them. This, indeed, is paying but a very bad compliment to the House of Lords. What says the hon. and learned Member for Wallingford (Mr. Malins)? I hope every Gentleman in this House has heard his speech, which was worthy of the eminent position which that hon. Gentleman holds in his profession. The hon. and learned Gentleman thought it beneath him to make an uncandid statement of his views, and I thank him for his candour; but, at the same time, I hope he will not think it unfair on the part of those who are friendly to further inquiry to take what they consider a just advantage of his statement of the grounds on which he intends to vote for the Bill. In the first place, the hon. and learned Gentleman said that he never had so much difficulty in making up his mind, and he described the oppression on his breast with respect to the vote he should give. Really, that part of his speech sounded like an appeal to our sympathy and compassion; and I assure him that if he will simply alter his intention with respect to his vote—as he may in perfect consistency, as all the substantial arguments he urged were against the Bill—he will find all those disagreeable feelings he has referred to immediately disappear, and he will pass at once from a state of trouble to a condition of ease and tranquillity, with the perfect consciousness that he has done a real service to his country. The hon. and learned Gentleman says he entirely objects to the retention of the appellate jurisdiction by the House of Lords, and he thinks that there is not the slightest doubt that, when three gentlemen are found sitting in some corner of the House of Lords during the prorogation, the public will begin to perceive that the appellate jurisdiction is reduced to a fiction. Therefore, he says, as a practical man, that, inasmuch as he perceives that this Bill destroys the substance of the appellate jurisdiction, though it does not professedly go the whole length of his opinion, which is in favour of destroying the shadow as well as the substance—yet, because it leaves only the shadow, he accepts the Bill. After that it was with some surprise that I heard my hon. and learned Friend the Member for

Cambridge University (Mr. Wigram) get up and say that he entertained some suspicions that the opponents of this Bill—that is to say, those who are against proceeding with it at present—harboured ideas unfavourable to the retention of the appellate jurisdiction by the House of Lords. I know not whether there is any great disloyalty to the prerogative of the House of Lords with respect to the appellate jurisdiction on the part of those who recommended further time for consideration; but I am quite sure that no one can entertain more dangerous views in reference to that matter than the hon. and learned Member for Wallingford. Now, I know not in what sense the noble Lord at the head of the Government was about to address the House on this question when he rose; but I never was more strongly convinced of the reasonableness and moderation of any proposition than I am of the reasonableness and moderation of the request contained in the Amendment before the House. It is not pretended that this is anything else but an Amendment, which, if carried, must for the present Session put an end to the Bill; and I seriously ask whether, in the present period of the Session, and under the circumstances in which we stand, we are fit to open up all the great questions which this Bill involves? Does not even decency require—I will not say duty to our constituents—but does not even that decorum, which our constituents have a right to demand that we should observe, require that for some short weeks we should deliberate on a question of this kind, before finally committing ourselves to an arrangement over which our control ceases when once we adopt it? What questions are involved in it? If we were to consider only the private rights of Lord Wensleydale, I must confess it is not too much to say that we ought well to scrutinise our proceedings before we venture to damage those rights which, he contends, have been created by a solemn act of the Queen, and which it may be in his power to submit to a court of law. Is it not desirable that time should be taken to reconcile the serious discrepancies among the supporters of this Bill? The Bill has been objected to as a compromise; and the answer made is, that many great measures of former legislation are founded on the basis of compromise. That is most true; but are those compromises on which these great measures are

Mr. Gladstone

founded, of a character analogous to the compromise in respect to this Bill? Of the former kind of compromises, it may be said that they are always arrived at after great deliberation, and when, by repeated discussions, you have well tested the state of the public mind and judgment, and the strength, not only of parties, but of arguments, so that you are enabled, on the whole, to come to a conclusion most agreeable to the general interests, and which commanded the confidence of every party. Is that the case here? On the contrary, this compromise is of a totally different character, and one which those who support it support without approval, either in consequence of the imaginary horrors conjured up by the Attorney General, or with the declaration of an intention of altering the Bill in Committee, as intimated by the hon. and learned Member for Wallingford—a declaration creditable to his acumen and candour, but which, if acted upon successfully, would obviously be fatal to the character of the Bill as a compromise. Compromise it may be, but it is entirely different from those respectable compromises which represent the conscientious conclusions of men after full investigation and deliberation. It is a compromise huddled up for the convenience of parties in some Committee-room in another place, then brought down to the House of Commons, and presented to us for our acceptance in such a shape, and under such circumstances, that it is not too much to say that if we pass this Bill, in the wretched sag-end which remains of the present Session, we shall be doing nothing short of abdicating our functions as legislators. Most of the points which concern this matter have been already treated with so much ability that I need not trouble the House by going over them again; but there is one point in particular to which I venture to call the attention of the House, because it affords a very strong ground of objection to proceeding with the Bill during the present Session. It is said that this Bill may be amended in its details. It is, however, sometimes difficult to judge what are details. If this Bill is a compromise, it is eminently desirable to know what are the essential parts of the compromise. If you take the lax and latitudinarian doctrine of the hon. and learned Gentleman who has just sat down, it appears that there are no essential parts in the compromise except the creation of two great salaried officers

of the House of Lords, and anything else may either be excluded or inserted. If, again, you were to adopt all the alterations suggested by the hon. and learned Member for Wallingford, I know not what security he gives that, after we have passed the Bill on the footing of a compromise, it would not then be rejected in another place as being something different from what was intended—as not representing the compromise. This I may assume, that if there is any one part of the Bill which is the essence of the compromise, it must be that portion which bears on the prerogative of the Crown. I take it for granted that the whole aim and object of the compromise were to save the consistency and to reconcile the opinions of those who were placed in conflict with respect to an important prerogative of the Crown, asserted by a minority and denied by a majority in the House of Lords. I therefore assume that the Bill represents the sense and spirit of that compromise with respect to the prerogative of the Crown. Well, what does the Bill say and do with respect to that prerogative? Is there any man who will answer me that question? I wish I had heard the noble Lord at the head of the Government deliver his authoritative judgment as to the effect of this Bill on the prerogative of the Crown. I did not hear the Attorney General express his opinion, nor do I believe that the Solicitor General—though I did not hear his speech—declared his opinion upon this point. This question is touched mainly in the fourth clause. I do not presume to give any opinion with respect to the important inquiry whether the Crown is entitled to create life Peers of Parliament or not. I do not dispute the doctrine of my hon. Friend the Member for Wallingford, that the House of Lords was acting within its competency when it thought fit to take a proceeding which had the effect of negating the exercise of that prerogative. But on the other hand, I think it is perfectly plain that, when we are called upon to legislate upon the matter of life peerages, the House of Commons is entitled, nay bound, to have an opinion with respect to that prerogative. The claim I make is this—and I think it is a resistless argument in support of the Motion of my hon. Friend—that we shall be permitted to deal with this question of prerogative in the daylight, and not in the dark. If we are about to limit the prerogative, let us know

it; or if we are about to save it, let us know that it is saved. It is quite plain that it would be unworthy of the framers of a Bill to propose to this House a measure couched in terms of studied ambiguity in reference to that point, and, if there could be a man who would frame a Bill for the purpose of deluding the House, it would be unworthy not only of our dignity, but of our intelligence, to allow ourselves to be taken in by such a delusion. This Bill says, in the fourth clause, that if Her Majesty shall have granted a peerage for life to any person who shall be appointed Lord High Chancellor or Deputy Speaker, such person shall be entitled to receive a writ of summons as a Peer of Parliament. I do not now animadvert—because it is a point of secondary importance—upon the somewhat indecorous if not unconstitutional course of providing by Act of Parliament for the compulsory exercise of the Queen's prerogative with regard to the issuing of a writ of summons; I do not enter into that question now, because it is possible that it may be amended as a verbal question in Committee; I simply confine myself to the meaning of the clause. I find here a clear enunciation in an Act of Parliament, that when Her Majesty shall have granted a peerage for life to a Lord High Chancellor or Deputy Speaker such person shall receive a writ of summons as a Peer of Parliament as a matter of right. Is not the maxim *inclusio unius exclusio alii*, I ask, most clearly applicable in this case? If you say that a person receiving an appointment as Deputy Speaker, with a peerage for life, shall be entitled to sit in Parliament, do not you thereby inevitably and irrevocably declare that no other person appointed a Peer for life shall be entitled to sit in Parliament? If there be any doubt on the matter, turn to the 6th clause which says that nothing shall in any wise abridge or affect the right of Her Majesty to appoint other Deputy Speakers than life Peers. If you mean to preserve the prerogative of the Crown to appoint life Peers of Parliament, why do you not say, in like manner, that nothing shall in any wise abridge or affect the right of Her Majesty to appoint life Peers? Do you mean to preserve the right or not? If you do not mean to preserve it, let us know that we are proceeding on that basis. You have granted the right of appointing other Deputy Speakers besides the two to be appointed under this Bill; you have also

granted the right of appointing four life Peers of Parliament under this Bill, and I want to know why, while preserving the right to make other Deputy Speakers you do not preserve the right to make other life Peers? Taking this fourth clause in connection with the rest of the Bill, I say that if you meant to enact an absolute extinction of any claim on the part of the Crown to exercise such a prerogative, you have done it most effectually here. Look at the first proviso in the fourth clause, "Provided always" (and I beg the attention of the Government to this point) "that not more than four persons shall have seats in the House of Lords at one time as Peers for life only." Are there any words in the English language which could more clearly express a Parliamentary declaration that the number of four Peers for life was to be the absolute maximum fixed by law? It may be right that that should be so; I do not enter upon that point; but, if we are to deal with a compromise on this question, I think we have a fair claim to know what is the meaning of that compromise. If you say that we must not inquire—that all we have got to do is to vote, it is not too much that before we vote we should ask you to explain to us what it is that we are going to vote. But even if we had before us an explicit and satisfactory declaration as to the question of life peerages itself, I should still be precluded from giving my vote in favour of this Bill without further inquiry by the simple consideration of the manner in which it deals with that great question. I think it is impossible that there could arise in this country a graver question than that involved in the creation of Peers for life. It may be that that question has been hastily and inconsiderately raised. That, I confess, is my own opinion, but the fact that it has been inconsiderately raised does not justify us in inconsiderately fixing and fastening it down by legislation. I can see great force in the argument for peerages for life. Your peerage, meant to be transmitted to remote descendants, is no doubt much connected with the possession of large property in all cases, except those where the personal distinction is so great as to render it nugatory to inquire what property the person raised to the peerage possesses, that it is a matter of great importance to consider whether in the professions from which you now-a-days mainly feed the peerage there is a fair chance of

Mr. Gladstone

the acquisition of such a property by the persons distinguished in those professions as will make it desirable, either for their own sakes or for the sake of the country, that they shall have peerages transmissible to their descendants: that is a matter of great importance, and above all it is a matter on which this House has a right to ask for some time to deliberate. On the other hand, there are the considerations so powerfully stated by my right hon. Friend the Member for Carlisle (Sir James Graham) the other night. This is an opinion which we must all entertain—that it is better not to open this question of life peerages until we are prepared to deal with it in a manner which shall probably both open and close it. I do not mean close it in such a manner that it cannot be opened again, for of such doctrines we are not accustomed to hear much here, nor do I think their reasonableness is very generally admitted; but it will be allowed that the subject of life peerages is one which, if it be made the basis of a legislative measure, ought so to be dealt with that it shall both give satisfaction to the public mind at the time, and shall bear upon itself such marks of deliberation and adaptation to the wants of the period in which we live, that, at any rate, we shall have the chance afforded to it of a fair consideration without a perpetual recurrence of agitation. Does this Bill, I ask, fulfil this reasonable condition? It is quite plain that this measure opens the question of life peerages; but it deals with that question in entire and exclusive subservience to the constitution of a court of appeal. Surely that is not the scope to which the question of life peerages is confined? Is there anything in the question of life peerages which has any inevitable relation with a court of appeal? On the contrary, will any man tell me that you cannot constitute a court of appeal without touching the question of life peerages? These two great subjects stand in no such relation to each other as that one of them ought to be made the accessory and the victim, so to speak, of the other. If the House will recall the precedents which have generally guided its conduct on great constitutional questions, I am confident it will never consent to pass, without due inquiry, a measure on the subject of life peerages, which fixes us with the responsibility of understanding the full importance of the subject, and of all the possible consequences which may

flow from it, and which raises the question, too, for a purpose so small and narrow, and to which it stands in no immediate connection. I know not whether it is undue prudery which influences my mind, but I cannot bring myself to see compensation given for the discharge of a duty which the House of Lords has hitherto cheerfully performed as a virtue, and part of its functions as a legislative body. The doctrine of our constitution certainly is, that legislative services are unpaid services, and I am bound to say that in my conviction there is no maxim which lies nearer the very root and foundation of the institutions of our country. If we are to be told of what is radical and revolutionary, there is no change which I should be inclined to view—I will not say with such suspicion—but with such aversion and detestation as the substitution of paid services in the Legislature for the gratuitous services which we now freely and efficiently render here. I do not mean to say that this is the same thing as if we were to proceed to vote salaries to ourselves and to the House of Lords; but an enemy to the House of Lords could hardly wish them to take a step more unwise than that of making a draught on the public purse. I think that the dignity of the House of Lords will suffer from the adoption of such a principle:—and I believe that the independence of the House of Peers will be most secure so long as all the functions which that House has to discharge are discharged gratuitously, as they have been from time immemorial. [“Hear, hear!”] These opinions may be disagreeable to some hon. Gentlemen; but even those to whom they may be disagreeable, will admit that it is only fair and just that those persons who entertain them should freely and frankly express them; and, for my own part, I am only giving utterance to my candid conviction upon the subject. I am jealous for the independence and dignity of the House of Lords, and I firmly believe that the appointment of salaried officers, sitting as Peers, to perform those judicial functions which that House has always discharged, will have, I will not say an immediate effect, but it will have a tendency dangerous to the dignity and independence of that body. I object to the measure on these grounds. I object to it also—most strongly object to it—on the ground of its connection with, and the influence it may have on the independence and purity of the judicial bench.

We have been told, indeed, by those who have spoken in favour of the Bill, that this part of the measure must be modified—and that it will not do to confine the choice of the officers to be elected to the judicial bench; and I conceive that, whatever vote we may come to to-night, it is impossible for the House to pass a Bill containing the provisions which this Bill contains with regard to that part of the subject. If you agree to those provisions, you not only introduce a principle with regard to the judicial staff which the practice of many years has excluded, but you introduce it in the most objectionable way, by holding out a prospect of advancement to judges in connection not only with their judicial, but also with their political services. You will bring the *maximum* of temptation to bear upon human infirmity, when you call upon these life Peers to perform legislation as well as judicial functions, for in fact you say to them, “make yourself agreeable to the Ministry of the day, not by your judicial, but by your legislative services, in order that you may hope for the further advancement to the hereditary peerage.” Now, Sir, let us review the circumstances which have transpired in the course of this debate, and the speeches of those who have supported the measure. It must have been obvious to the House, that all the good which those hon. Gentlemen have said of the measure, has been much more than counterbalanced by the censure of it contained in their own speeches. For my own part, I believe that if all the opponents of the Bill had been content to take self-denying ordinance and to take no part in the discussion, but to listen to what was said of it by its supporters, they would have had no reason to complain of it being treated with too much favour. It cannot be denied that the question is one of the greatest difficulty and delicacy, and one which involves a vast number of considerations. You have to constitute a Court of Appeal in the last resort; but it ought to be considered, among other matters, whether it would be desirable to have one or more Courts of Appeal, and whether means may not be adopted to avoid the multiplication of appeals. As regards the great question of life peerages, you are called upon to legislate in the dark as regards the prerogative of the Crown; because, although in that respect the meaning of this Bill is not subject to much serious argument, yet it is not too much to say that it is in diametrical contradiction of the de-

claration of the Government of the Queen upon the subject. Under these circumstances, is it too much to ask, that we may have accorded to us as much time for the consideration of this subject, as is ordinarily afforded to the House of Commons, for the consideration of subjects of not one-twentieth part of its importance and magnitude? It is vain to say that the present state of things, with regard to the appellate jurisdiction of the House of Lords, is intolerable. It is true that there may be five or six months' delay; but that delay has always existed; and yet the persons who use that argument, tell us that even thirty years ago the appellate jurisdiction of the House of Lords was most satisfactory, when the same gap of six months in every twelve, which is now objected to and urged as the chief ground upon which you are to adopt a measure, doubtful in itself even according to the statements of its promoters, and involving principles of the greatest difficulty and delicacy, and which most nearly bears upon the very foundation of the constitution, occurred every year. Under these circumstances, it is hardly too much, I think, to ask the noble Lord at the head of the Government to consent to the Motion of the hon. Gentleman, and to consent to refer this Bill to a Select Committee, to weigh well not only the difficulties by which the subject is surrounded, and which this Bill will tend to indefinitely complicate, so that we may not discredit ourselves and the British Legislature; but that by the exercise of prudence and by refraining from pressing extreme opinions, we may be able at some future period, and I venture to hope at no distant period, to present the country with a measure worthy of a great country.

VISCOUNT PALMERSTON: It must be admitted, Sir, by all that what has been stated by the hon. and learned Gentleman opposite (Mr. Malins), that the meaning of this Motion is not so much to obtain an inquiry by a Select Committee as it is to get rid of the Bill for the present Session, is a correct view of the case, and upon that issue every hon. Member must be prepared to give his vote to-night. I very much regret the circumstances under which my hon. Friend has made this Motion, and also the manner in which he and my right hon. Friend have adverted to it. There is, I am sorry to say, a strong difference of opinion upon this subject, and I am sorry to be obliged to differ from many of those who in general afford me their sup-

Mr. Gladstone

port. We have, however, felt it to be our duty to recommend this measure to the acceptance of the House; and, however painful it may be to find that in the performance of our public duty we stand at variance with those who generally give us their support, still, having felt it to be our duty to propose the Bill, we were bound to discharge that duty, whatever the consequences might be. Now, Sir, this measure has been occasioned by the conviction which we have entertained that the appellate jurisdiction of the House of Lords is in a condition in which it would not be for the public good that it should continue. Let it not be understood that I agree with those who think there is something inherent in the appellate jurisdiction of the House of Lords which is in itself objectionable; on the contrary, I should be sorry to see that jurisdiction transferred to any other tribunal. I think that the proposal to transfer that jurisdiction to the Judicial Committee of the Privy Council is founded upon very imperfect considerations, both as regards the tribunal from which it is proposed to take that jurisdiction, and also of the court to which it is proposed to transfer it. I think that to transfer the appellate jurisdiction, which has so long been exercised by the House of Lords, to the Judicial Committee of the Privy Council, which is a body of very recent origin—from a body of greater stability and independence to one which, from its nature and constitution, is dependent upon the act of the Crown—would be a measure not, in my opinion, in harmony with the practice of the constitution, nor would it tend to the maintenance of principles which we have always upheld. What was it, then, that, in our opinion, rendered some change necessary with regard to the appellate jurisdiction of the House of Lords? It was, that by the course of nature many of those eminent men who had been the legal ornaments of the House of Lords, and who had constituted the strength of the appellate jurisdiction of that House, had passed away; and the number of law Members of the House of Lords capable of constituting an efficient and satisfactory Court of Appeal had largely and visibly declined. Under these circumstances it had become necessary to strengthen that court by the addition of legal talent. Then comes the question of life peerages. My right hon. Friend (Mr. Gladstone) has stated that the question has been inconsiderately mooted by the

Government. Now, upon that point I beg leave to differ from him. The question is one which is mooted by the Government for the first time this year, but one which has for a long period occupied the attention of successive Governments, and which has been most carefully considered. As regards the general principle of life peerages, it is my own opinion that the House of Lords acted upon an erroneous judgment when they arrived at the conclusion at which they did arrive with regard to the admission of Lord Wensleydale to a seat in that House. There is a great distinction between the House of Lords and the House of Commons in respect to their source of power and influence. The great influence of this House arises from its being an elected body, and thus being a representation of the feelings and opinions of the great mass of the people of this country. The influence and power of the House of Lords, on the other hand, are founded upon the character of its members, upon their local influence, their personal character, or the political ability which they may display. There can be no doubt that the House of Lords would derive great influence and consideration in the country if there were the means of placing within its limits men who had distinguished themselves, either by their legal attainments or by great military or naval achievements, but who, not having that fortune which would enable them to transmit to their descendants the means adequately to maintain the dignity of the peerage, would be placed in an improper, and to themselves a painful, situation by being made hereditary Peers. That being our opinion, a life peerage was conferred by Her Majesty, acting on the advice of Her Ministers, upon Baron Wensleydale. The House of Lords differed upon the point, and a majority decided against the admission of Baron Wensleydale as a life Peer to a seat in the House. Then came the question, what course should be pursued? We have been told by the right hon. Member for Oxford University, that the present Bill is the result of a compromise huddled up in a Committee-room for the convenience of parties. It is no such thing. It was not the convenience of parties, but a compromise arising from a conflict of opinions upon a question of very great importance, and which promised a satisfactory solution of the difficulty. Thus, the Bill comes down to us from the House of Lords as an arrangement, which, on the

one hand, is consented to by those who object to life peerages in the abstract; and, on the other, furnishes such a reinforcement of strength to the appellate jurisdiction of the House of Lords as will in some degree remedy the evils which now exist. Many hon. Gentlemen think that a better arrangement might be made. That is not impossible; but the question is not whether this is the best possible arrangement for reinforcing the appellate jurisdiction of the House of Lords, but whether the Bill which is now presented to us, and which, if we agree to it, would no doubt be carried into law, does give such an accession of strength to the appellate jurisdiction as would render it satisfactory to the country. My opinion undoubtedly is that it does. I am of opinion that the appointment of two salaried Members of the House of Lords would strengthen that Court sufficiently to enable it to perform its duties with more effect and with more satisfaction to the public. The right hon. Member for Oxford University says we are introducing a new principle to pay Members of the Legislature for the performance of their Legislative functions. But we do not mean to pay the Deputy Speakers for the performance of their legislative functions; nor is it contrary to the principle of the constitution to pay for the performance of important judicial functions, when performed by Members of the Legislature—on the contrary, it is a recognised and well-known principle of the constitution. My right hon. Friend might as well object to pay the Lord Chancellor, who presides in the House of Lords, and exercises not only judicial but also legislative functions. The objection founded upon principle goes beyond the limits of the present Bill; but in my opinion there is no constitutional objection whatever to giving to certain legal Members of the House of Lords that salary which would enable distinguished lawyers to abandon either their practice at the bar—if the proposition of the hon. and learned Member for Cambridge University were adopted; or their judicial situations, according to the present arrangement of the Bill, for the purpose of undertaking the important duties which the Deputy Speakers will have to perform in the House of Lords. I say, then, that what is called a compromise is simply the result of conflicting opinions entertained upon a subject of great importance—the result of a contest and a discussion—not, as my hon. Friend who moved the Amendment represented by

his theatrical allegory, acted as a farce upon the stage, but carried on openly in the face of day, known to everybody, and ending in mutual concessions on the part of those who differed upon a question of considerable magnitude. But it is said that this is a matter of such importance that we ought not to come to a decision upon it without much more lengthened and deliberate consideration. Why, seeing that it has been a matter of public discussion ever since March in the present year, I cannot imagine what a further delay would do for those who have given their mind to it. When I hear the arguments of those who contend for further investigation and inquiry, I am reminded of the doggrel lines about Dean Swift, who was said to have

“ ————— defended the ancients so well
That he perfectly proved the moderns excel.”

The hon. Gentlemen who have asked for further investigation have shown that they have so completely sifted and mastered the question in all its bearings—so thoroughly examined every part of the measure now under discussion—have made themselves so perfectly masters of every objectionable point—that no more lengthened or deliberate consideration is necessary to enable them at least to come to a decision. I therefore respectfully submit to the House that it is admitted on all hands that a great evil exists—that the appellate jurisdiction of the House of Lords has been weakened, not by anything inherent in the constitution of that body, but by the accidental circumstance of a diminution in the number of Members competent to take part in its judicial business; and here is a measure which provides a permanent remedy for that occasional inconvenience—a measure which I think would secure to the Appellate Court that strength which would enable it at all times to be efficient for the purposes which it has in view; and it appears to me that it would be a great misfortune if this House were to reject the Bill and determine that an inconvenient state of things, of which such complaints have been made, should continue to exist. It is said that you will lose nothing by rejecting this Bill, because during the interval between the end of the present Session and the beginning of the next, the ordinary cessation of the appellate jurisdiction of the House of Lords would take place. But I apprehend, looking to the arguments which have been used in this debate, that if the matter were to be referred to a Select Com-

Viscount Palmerston

mittee, leaving it to be taken up at the beginning of next Session, there would be little probability of the House passing the measure, so as to allow it to come into operation before the end of the Session; and therefore the question does not relate merely to the interval between this Session and the next, but to the continuance for a much longer period of a state of things which both those who are for and those who are against the Bill have condemned. A great deal has been said as to the effect of the Bill upon the prerogative of the Crown. It is manifest, I think, to everybody who reads the Bill that it acknowledges the prerogative and limits it; that, on one side, those who object to life peerages have acknowledged the prerogative of the Crown to create them, and, on the other, those who maintain the prerogative have consented to a limitation for the purpose of establishing the appellate jurisdiction of the House of Lords on a satisfactory basis. Such is the compromise which the Bill carries into effect, and I have only, in conclusion, to express my hope that the House, rejecting the Amendment of the hon. Member for Northampton, will consent to go into Committee.

MR. ROEBUCK would wish to say a word on the question of the prerogative of the Crown as affected by this Bill. In another place a noble Lord had stated that this Bill did not touch the prerogative of the Crown; while the noble Lord at the head of the Government appeared to hold a contrary opinion. He should wish the House to ask the law officers of the Crown what was their opinion, as without it the House were about to legislate in the dark. He had been struck by the wording of the measure, and he felt convinced it would take away the power of the Crown to make life Peers. He should wish to know whether it was the opinion of Ministers that such would be the case, or whether they agreed in the opinion expressed by their colleagues in another place? He hoped, therefore, he was in order in asking the law officers of the Crown for their interpretation of the measure.

THE SOLICITOR GENERAL said, that it was impossible to give a positive answer to the question of the hon. and learned Gentleman, without first ascertaining whether the Crown had the prerogative of creating life Peers. If there were such a prerogative, beyond question this Bill, as now worded—the wording being a matter for the consideration of the

Committee—limited the exercise of that prerogative, so that by virtue of it there could not be in the House of Lords more than four Peers for life at one time.

Question put, "That the words proposed to be left out stand part of the Question."

The House divided :—Ayes 133 ; Noes 155 : Majority 22.

List of the AYES.

Baines, rt. hon. M. T.	Langton, W. G.
Baird, J.	Lewis, rt. hon. Sir G. C.
Ball, J.	Liddell, hon. H. G.
Baring, T.	Lindsay, hon. Col.
Bentinck, G. W. P.	Littleton, hon. E. R.
Bethell, Sir R.	Lockhart, W.
Biddulph, R. M.	Lowe, rt. hon. R.
Bignold, Sir S.	Lowther, Capt.
Blandford, Marquess of	Luce, T.
Bouverie, rt. hn. E. P.	Macartney, G.
Bramley-Moore, J.	Mackinnon, W. A.
Brand, hon. H.	Malins, R.
Bruce, Lord E.	March, Earl of
Buck, Col.	Massey, W. N.
Buckley, Gen.	Matheson, A.
Burrell, Sir C. M.	Matheson, Sir J.
Burrowes, R.	Miles, W.
Cayley, E. S.	Monck, Visct.
Chaplin, W. J.	Moncreiff, rt. hon. J.
Christy, S.	Monsell, rt. hon. W.
Cockburn, Sir A. J. E.	Morgan, O.
Cocks, T. S.	Mostyn, hn. T. E. M. L.
Codrington, Sir W.	Mowatt, F.
Cole, hon. H. A.	Mowbray, J. R.
Coles, H. B.	Mullins, J. R.
Corry, rt. hon. H. L.	Naas, Lord
Cowper, rt. hon. W. F.	Napier, rt. hon. J.
Craufurd, E. H. J.	Neeld, J.
Davies, D. A. S.	Newdegate, C. N.
Disraeli, rt. hon. B.	Newport, Visct.
Duncan, Visct.	Nisbet, R. P.
Ferguson, Sir R.	North, Col.
FitzGerald, rt. hn. J. D.	Osborne, R.
Follett, B. S.	Paget, Lord A.
Freeston, Col.	Paget, Lord G.
Freshfield, J. W.	Palmer, Roundell
Galway, Visct.	Palmerston, Visct.
Gooch, Sir E. S.	Peel, Sir R.
Graham, Lord M. W.	Peel, F.
Greaves, E.	Repton, G. W. J.
Greene, T.	Rolt, P.
Gregson, S.	Russell, F. W.
Grey, rt. hon. Sir G.	Rust, J.
Grey, R. W.	Seymour, H. D.
Grogan, E.	Sibthorp, Major
Hall, rt. hon. Sir B.	Smith, M. T.
Hamilton, Lord C.	Smith, rt. hon. R. V.
Hamilton, G. A.	Smyth, Col.
Harcourt, Col.	Spooner, R.
Herbert, hon. P. E.	Stanhope, J. B.
Hildyard, R. C.	Steel, J.
Horafall, T. B.	Stracey, Sir H. J.
Hughea, H. G.	Sturt, H. G.
Johnstone, J.	Taylor, Col.
Jolliffe, Sir W. G. H.	Thesiger, Sir F.
Jolliffe, H. H.	Traill, G.
Jones, Adm.	Uxbridge, Earl of
Kingscote, R. N. F.	Vane, Lord H.
Knatchbull, W. F.	Villiers, rt. hon. C. P.
Labouchere, rt. hon. H.	Waddington, H. S.

Walcott, Adm.
Walpole, rt. hon. S. H.
Walsh, Sir J. B.
Welby, Sir G. E.
Whatman, J.
Whiteside, J.
Whitmore, H.
Wigram, L. T.

Willoughby, Sir H.
Wilson, J.
Woodd, B. S.
Wrightson, W. B.
Wynne, W. W. E.

TELLERS.

Hayter, rt. hon. W. G.
Mulgrave, Earl of

List of the NOES.

Acton, J.	Graham, rt. hon. Sir J.
Agnew, Sir A.	Greenall, G.
Alcock, T.	Greene, J.
Anderson, Sir J.	Grosvenor, Lord R.
Antrobus, E.	Hadfield, G.
Bailey, C.	Hankey, T.
Baillie, H. J.	Harcourt, G. G.
Baldock, E. H.	Hastie, Alex.
Baring, rt. hn. Sir F. T.	Hastie, Archibald
Barnes, T.	Headlam, T. E.
Bass, M. T.	Heathcote, Sir W.
Baxter, W. E.	Henley, rt. hon. J. W.
Beaumont, W. B.	Hiotham, Lord
Bell, J.	Howard, hon. C. W. G.
Berkeley, hon. H. F.	Hutt, W.
Biggs, W.	Ingham, R.
Black, A.	Ingram, H.
Blackburn, P.	Johnstone, Sir J.
Boldero, Col.	Kendall, N.
Bonham-Carter, J.	Kennedy, T.
Bowyer, G.	King, hon. P. J. L.
Bramston, T. W.	Kinnaird, hon. A. F.
Brocklehurst, J.	Lacon, Sir E.
Brotherton, J.	Langston, J. H.
Brown, W.	Langton, H. G.
Bruce, H. A.	Lascelles, hon. E.
Byng, hon. G. H. C.	Layard, A. H.
Cairns, H. M'C.	Lennox, Lord H. G.
Campbell, Sir A. I.	Lindsay, W. S.
Cardwell, rt. hon. E.	Locke, J.
Cavendish, hon. G.	MacEvoy, E.
Child, S.	MacGregor, James
Clay, Sir W.	MacGregor, John
Cobbett, J. M.	MacTaggart, Sir J.
Colville, C. R.	Maguire, J. F.
Cowan, C.	Mangles, R. D.
Dashwood, Sir G. H.	Masterman, J.
Denison, E.	Meagher, T.
De Vere, S. E.	Miall, E.
Dillwyn, L. L.	Milligan, R.
Duke, Sir J.	Milnes, R. M.
Duncan, G.	Mitchell, T. A.
Duncombe, hon. Col.	Moffatt, G.
Dundas, G.	Morris, D.
Dundas, F.	Murrough, J. P.
Dunlop, A. M.	North, F.
Egerton, W. T.	Northcote, Sir S. H.
Evelyn, W. J.	O'Brien, P.
Ewart, W.	Palk, L.
Ewart, J. C.	Parker, R. T.
Ferguson, Col.	Pechell, Sir G. B.
Ferguson, J.	Pellatt, A.
FitzGerald, Sir J.	Perry, Sir T. E.
Forster, C.	Phillimore, J. G.
Forster, J.	Phillimore, R. J.
Fox, W. J.	Pilkington, J.
Gibson, rt. hon. T. M.	Portman, hon. W. H. B.
Gladstone, rt. hon. W.	Price, W. P.
Glyn, G. C.	Pritchard, J.
Goderich, Visct.	Ricardo, O.
Gordon, hon. A.	Ricardo, S.

Rice, E. R.	Thornely, T.
Rich, H.	Thornhill, W. P.
Richardson, J. J.	Tite, W.
Ridley, G.	Tollemache, J.
Robartes, T. J. A.	Vernon, G. E. H.
Roebuck, J. A.	Walmsley, Sir J.
Russell, Lord J.	Walter, J.
Sawle, C. B. G.	Watkins, Col. L.
Scholefield, W.	Wickham, H. W.
Seymour, W. D.	Wilkinson, W. A.
Shafto, R. D.	Willoox, B. M'G.
Shelley, Sir J. V.	Williams, T. P.
Sheridan, R. B.	Williams, W.
Smith, J. B.	Wortley, rt. hon. J. S.
Somerville, rt. hon. Sir W.	Wyvill, M.
Strutt, rt. hon. E.	TELLERS.
Stuart, Capt.	Currie, R.
Tempest, Lord A. V.	Denison, J. E.

PAIRS.

AYES.	NOES.
East, Sir J.	Adderley, C. B.
Russell, H.	Cecil, Lord R.
Herbert, Sir T.	Coffin, W.
Pennant, Col.	Divett, E.
Pugh, D.	Duncombe, T. S.
Gilpin, Col.	Evans, Sir De L.
Bective, Earl of	Fergusson, Sir J.
Hayes, Sir E.	Fitzgerald, W. S.
Bond, J. W.	Gaskell, J. M.
Newark, Visct.	Grenfell, C. W.
Waddington, D.	Gurney, J. H.
Pollard-Urquhart, W.	Heywood, J.
Stewart, Sir M. S.	Hogg, Sir J. W.
Cubitt, W.	Hutchins, E. J.
Goddard, A.	Jackson, W.
Chelsea, Visct.	Martin, P. W.
Michell, W.	Norreys, Sir D.
Raynham, Visct.	Paxton, Sir J.
Forester, rt. hon. Col.	Peacock, G. M. W.
Carnac, Sir J. R.	Pigott, F.
Mundy, W.	Sanders, G.
Vernon, Capt.	Shee, W.
Pakington, rt. hon. Sir J.	Strickland, Sir G.
Seymer, H. K.	Tomline, G.

Words added:—

Main Question, as *amended*, put, and *agreed to*.

Ordered, that the Bill be committed to a Select Committee.

INCUMBERED ESTATES (IRELAND) BILL.

Order for Third Reading read,

Bill read 3°

MR. WHITESIDE then proposed the following clause:—

“ So much of the first section of the said firstly-recited Act of the 12th and 13th year of Her Majesty as provides that the Court for the Sale and Transfer of Incumbered Estates in Ireland shall consist of any number of persons not exceeding three, to be Commissioners under said Act, is hereby repealed, and said Court shall hereafter consist of two Commissioners only; and the officers under said Act heretofore attached to the first Commissioner shall be distributed between the remaining two Commissioners in manner best calculated to facilitate the despatch of the business of said Court.”

Clause *brought up*, and read 1°.

Motion made and Question proposed, “ That the said Clause be now read a second time.”

MR. J. D. FITZGERALD said, he had on a former occasion stated the objections to this clause, and therefore did not consider it necessary to take up the time of the House in reiterating those arguments he had before urged.

MR. NAPIER said, that the clause was proposed in accordance with the evidence taken by the Committee, which went to show that two Commissioners were sufficient to discharge the duties of the court, and that it was desirable that Baron Richards should return to the Court of Exchequer.

LORD NAAS supported the clause, and asked the Government to state their intentions as to the future constitution of the Court—whether they really intended to remove Baron Richards and to appoint another Commissioner in his place?

MR. GROGAN said, the question before the House was a great deal more important than the Government seemed desirous of acknowledging. If the proposition of the hon. and learned Member for Enniskillen be rejected, the Government should explain how they meant to dispose of Baron Richards, who, they said, ought to be removed from the Incumbered Estates Court, in order that he might be enabled to return to his legitimate court. He thought that the clause was most essential to carry out the recommendations of the Committee.

VISCOUNT PALMERSTON said, his hon. and learned Friend had already distinctly stated that it was the intention of the Government to discontinue Baron Richards as a member of this Court, and that he should return to his own proper Court. The Government, however, thought it desirable to retain the power of appointing three Commissioners if it should be found that the business of the Court could not properly be performed by two. They should be most desirous and willing to reduce the number to two. It would, however, be exceedingly inconvenient if the power of appointing three should be taken away from the Government after it was found that two were not sufficient to perform the functions of the Court.

SIR JAMES GRAHAM said it was distinctly understood that Baron Richards was to return back to his Court and his

circuit. He took it as granted that the experiment would be made of confining the number of Commissioners to two. If it be found that two would be able, satisfactorily, to perform the business of the Court, he wished to ask the noble Lord whether in that case the Government would abstain from appointing a third Commissioner? If the noble Lord answered in the affirmative, he hoped that the right hon. Member for Enniskillen would not think it necessary to press his Amendment.

VISCOUNT PALMERSTON said, it was clearly his intention to express himself so. It was the intention of the Government to make the experiment with two only; and if that number were sufficient for the performance of the duties, he would not resort to the appointment of a third.

MR. WHITESIDE said, that under such circumstances, he would yield to the suggestion of the right hon. Baronet, and withdraw his clause.

Motion and Clause, by leave, *withdrawn*.

Bill passed.

STAMP DUTIES BILL—INCOME AND LAND TAXES BILL.

THE CHANCELLOR OF THE EXCHEQUER moved for leave to introduce two Bills. The first provided for the reduction of the duty upon proxy papers for voting in respect to railway companies from 2s. 6d. to 6d. That reduction, he believed, would meet with general approbation, as he was informed that the present rate of duty acted as a practical restriction upon the shareholders from voting, and thereby prevented them from controlling the acts of the directors. It was a matter of public policy to make the alteration he proposed. The Bill also proposed to effect a similar reduction in respect to certain instruments in Scotland called mandates, which were proxies for voting in respect to municipal and parochial matters. He also proposed to make an alteration with respect to the stamping of articles of clerkship to attorneys. At present, if the articles were not stamped before taken out they were invalid, and he proposed to adopt in regard to those instruments the same course that was pursued in respect to similar documents, and to allow them to be stamped at a future time upon payment of a penalty. The other Bill which he wished to intro-

duce was intended to give to landowners in Scotland the same advantages with respect to the income tax which were virtually enjoyed by landowners in England, and which had been conferred by Act of Parliament upon landowners in Ireland. In Ireland there was an express provision by law that in calculating the income tax an exemption should be made for so much of the poor rates as fell upon the landlord. In Scotland the general incidence of the local rates was upon the landlords, who were in general, he believed, charged by the law directly with those rates. The effect of that state of things was, that the landlord received his rent without any deduction being made for the local taxes; he paid the local taxes himself, and his income tax was charged upon his gross rental, including the local rates. That was a disadvantage under which the Scotch landlords laboured in comparison with the same class of persons in England and Ireland, and from it he now proposed to relieve them. He further proposed to make an alteration with respect to the clerks of the Commissioners of Income Tax in England. The effect of raising the rate of income tax had been so to increase the scale of allowance to the clerks of the Commissioners as to render it excessive. He proposed that with respect to all those gentlemen whose salaries amounted to more than £500 a year, their poundage should be reduced from 2d., which it was at present, to 1d. in the pound, provided the alteration should not reduce their salaries to less than £500. If this reduction of the poundage should have the effect of bringing the salaries below £500 a year, they would be made up to that amount. The effect of the proposed provision would be that about thirty of the present clerks of Commissioners of Income Tax out of about 700, would undergo a diminution of their salaries. He also proposed to make a slight alteration in the land tax. At present the power of redeeming this tax was confined to persons who had an estate in fee simple. Persons having limited interests, such as life estates, did not possess this power, and he now proposed to confer it upon them.

Leave given.

Bill *ordered* to be brought in by the CHANCELLOR of the EXCHEQUER and Mr. WILSON.

Bill read 1^o.

The House adjourned at Two o'clock.

HOUSE OF LORDS,

Friday, July 11, 1856.

MINUTES.] *Sat First in Parliament.*—The Lord Carysfort, after the Death of his Brother.

PUBLIC BILLS.—1st Revenue (Transfer of Charges); Incumbered Estates (Ireland); Court of Chancery (Ireland) (Receivers); Prisons (Ireland).

2nd Parochial Schools (Scotland); Oxford College Estates.

3rd Turnpike Acts Continuance; Advowsons; Militia Ballots Suspension; Charities.

INDIA—CASE OF PERTAUB SINGH AND BISHEU SINGH—PETITION.

THE EARL OF ELLENBOROUGH *presented* a petition, to which he was desirous of calling their Lordships' attention, from Pertaub Singh and Bisheu Singh, British subjects, Soodees of Thubkurnah, Pergunnah, Deewanuggur, Zillah Goordaspoor, in the province of Lahore, commonly called the Punjaub, in the East Indies, complaining of the grievances they are suffering from the East India Company's Government, and praying for relief. He had thought it right to undertake the presentation of this petition, because it seemed to him expedient that the Natives of India should thoroughly understand that they were as much Her Majesty's subjects, and that recourse to Parliament was as open to them as to any of Her Majesty's subjects born in the United Kingdom. He was the more disposed to present the petition inasmuch as it complained of a very great grievance, for which these gentlemen had no remedy whatever in India; and he felt that it was only by giving publicity to the grievance they had suffered, by presenting their petition to Parliament, that it was possible for them to obtain redress. Although these gentlemen were not able to transport themselves hither, to take a house in London, and go about in their carriage and leave their cards with Members of both Houses of Parliament previous to the presentation of a petition or the discussion of a measure in which they were concerned, he nevertheless felt confident that their Lordships would not on that account give a less favourable hearing to their statement and their prayer. The petitioners were the lineal descendants of a great religious leader and teacher of the Sikhs who lived 280 years ago, and whose name was Oomra Ran Doss. He was a person of great influence, and his family had from

that time to this maintained themselves in the position of gentlemen; respected by all, and retaining their possessions throughout all the changes and civil convulsions that had occurred in the interval. A portion of their property these gentlemen derived from grants made to them by the ancient princes and chiefs of the Punjaub; and they stated that the grants by which they held that property existed in the archives of the Lahore Government, and had been verified by the officers of the Indian Government, and certified as perfectly correct; so that there could be no doubt whatever as to their being the rightful possessors of the property. They said that they had never acted against the Government of India, but had, on the contrary, assisted them as far as they were able. They stated, also, that upon the conquest of the Punjaub the Board of Administration recommended that one-fourth of this property should be appropriated by the Government, and that, knowing the necessity for the Government having resources to enable them to maintain order in the country, they did not object to the sacrifice of the one-fourth demanded of them. The Board of Administration further proposed that the remaining three-fourths should remain to these gentlemen during their lives, and that after their decease a portion, amounting to about one-third of what they originally possessed, should be perpetually secured to their heirs and successors. On the 6th of May, 1853, the Supreme Government of India confirmed the decision of the Board of Administration as to taking away the one-fourth, and leaving to them for their natural lives the remaining three-fourths; but they rejected altogether the proposition of the Board that the descendants of the petitioners should retain the one-third. Now this, the petitioners represented, was not a general rule that had been enforced systematically throughout the province; on the contrary, in their own district, and in the immediate neighbourhood there were many cases of persons whose positions were exactly similar to theirs, and who not only had a portion of their property secured to them during their own lives, but a portion also secured to their descendants and successors after them. The Deputy Commissioner of the district reported that the petitioners were very respectable men, and that they bore a high character among both Europeans and Natives, and that they held the position of

country gentlemen. Mr. Raikes stated that Pertaub Singh was a very respectable gentleman, whom he commended to the protection of the East Indian Government on his visit to Calcutta; and Colonel Lake also bore testimony to the character of these gentlemen. But the petitioners stated that by the decision at which the Indian Government had arrived, they were at this moment living in the melancholy position of knowing, that if that decision were carried out they would leave their descendants without an inheritance. He (the Earl of Ellenborough) had moved for and obtained papers, which showed what was the principle upon which the Indian Government had acted towards the Sikhs, and he found that that principle was one upon which they were justified in acting, though he held that it was not applicable to the case of these gentlemen, who had never borne part in opposing or resisting the Indian Government, but had always given that Government all the assistance that was in their power. Whilst, however, the Government might be justified in acting as they had done in the case of the Punjab, as a conquered country, he disputed the wisdom of treating the Sikhs differently from the other conquered provinces of India. Take Scinde as an example. So satisfactory was the system pursued there, that from the day the chiefs swore allegiance to the Indian Government not a hand had been raised against our authority, and he was assured by Mr. Frere that the armed police were amply sufficient for maintaining the internal tranquillity of that country, and that if troops were maintained there, it was not for the purpose of securing internal quiet, but to protect the frontier, and guard against the inroads of hostile neighbouring powers. How different from the position of the Punjab, where Government were obliged to maintain an army of 50,000 men, in addition to 18,000 or 20,000 armed police! It was to him a subject of the most serious consideration, and always had been—what would be the ultimate result of the policy which we had been pursuing now for many years, not intentionally, in various provinces of India. For there could be no doubt that our severe fiscal administration had, against our desire, had the effect of so changing the distribution of property there, as to produce a state of society of which there were few instances in the history of the world—he meant a state of society without any or very rare gradations of rank—a

nation without a gentry. It was the first time, he believed, in the history of the world that any such state of society had existed. There was, or would soon be, in India, no link between the foreign sovereign and the native labourer; and it was a reflection upon the recent Government of India that it had endeavoured to introduce into the Punjab a system the effect of which was to annihilate the ancient possessors of the soil, to substitute none for them, and to have none whatever between the Government and the field labourer. In adopting a policy like this, did they suppose that they had created a state of society upon which it was possible for education to act for the moral improvement of the people? Did they suppose that they could improve by education a suffering body of proprietors, or raise a population which was reduced to that low level of distress and misery? And let them imagine what might be the consequences if, in some future time, circumstances led to a general insurrection in the Punjab. What hope would there be for the Government? What help for the people? He had heard Gentlemen express hopes, that by improving the country we might render it capable at some distant period of governing itself; but how could they ever hope to attain such a result as that, if they established and persisted in a system which conduced to a state of society where there were no gradations of rank, and none between the foreign governor and the labouring classes? This question had always pressed much upon his mind; and the present was not the first time that he had thought it necessary to mention his feelings to their Lordships. He hoped it was a matter that would attract the attention of those who were connected with the Government of India. With regard to the particular case of the petitioners, he must say that he really thought it was impossible that the Government could have deliberately arrived at the conclusion to which they had come respecting it—he could not help hoping that among a mass of cases this one had been decided hastily. He trusted that the Government in this country would recommend the question to the consideration of the Government in India, and, relying as he did upon the truth of all the statements contained in the petition, that the decision of the Government in India would be such as to relieve the character of our Administration from the injury it must sustain if such injustice were continued.

THE DUKE OF ARGYLL agreed with the noble Earl in his desire that the Natives of India should be encouraged in the feeling that in any claim for justice there was a Court of Appeal in the Parliament of this country, and he trusted that every native so appealing would find an advocate as able and judicious as the noble Earl. But there was this disadvantage, that it was impossible that the Government could have full information of the details in every individual case which might be suddenly brought under the notice of Parliament. He would, as far as he had been able to acquire information with regard to them, mention the circumstances under which the decision was come to in the present case by the Governor General of India. The noble Earl had referred to the general principles laid down by the Governor General with reference to the government of the Punjaub; and in the line of argument he took seemed to convey an impression that the Governor General had made a great distinction between the mode in which the government of the Punjaub was carried on, and that in which the rest of the country was governed. But no such distinction had been laid down by the Government of India as between those provinces and other parts of the country. He (the Duke of Argyll) never looked into the history of India without feeling some doubt as to the right by which we had taken possession of parts of that empire; and those doubts he had entertained, especially as regarded Scinde. But if ever there was a province acquired in a legitimate mode, it was the Punjaub. In a time of profound peace our territories of India had been attacked by the Sikh Rajah, and every one must well remember the alarm which was felt in this country at the temporary success which followed the first invasion of our territory. After a struggle, renewed more than once, we had succeeded in conquering the Punjaub. He did not mean to say that we were therefore justified in treating the Natives with injustice; but if there was any province which we should be justified in treating as a conquered province, it was the Punjaub. The instructions of the Governor General to the Board of Administration in the Punjaub, laid down a general principle for the assessment of the land for the purposes of the Government. He should state that the property in question was not land, or revenue derivable from land, but grants of remission from taxation on land. The

Governor General having laid down in his instruction the general principle, went on to detail the different classes of cases with which the Board of Administration would have to deal; and the case which the noble Earl had brought forward came under the fifth head of the instruction—namely, “that all persons holding lands subject to pay fines should hold them for their lives, subject to the payment of one-fourth to the revenue, and that on the death of the holder the property would be resumed by the Government.” The general principle was, that the grants were respected as regarded the existing holders; but should not be continued to future holders, except those which had been given for certain religious purposes. It was under these general rules that this case stood. It might be said that the grants in question came under the head of a religious and charitable character; but the claim having been brought under the consideration of the Government of India, it was decided, after full inquiry, that they were not of a charitable or religious character, or such as, being for the support of religious or public buildings, would, under the rules, be entitled to be continued in perpetuity. He would ask the House to consider the serious nature of the question involved in this claim. If the claim were conceded in this case it must be conceded in all others of a similar nature, and that would involve the sacrifice of one-fifth of the whole revenue of the province, the abstraction of which would necessarily throw the whole fiscal system into confusion, and render it difficult, if not impossible, to carry on the government. He was not in possession of any very full information of the grounds which had led the Supreme Government of India to decide that this was not one of the exceptional cases contemplated in the general rules; but he would submit the petition to his right hon. Friend the President of the Board of Control, and if his right hon. Friend saw sufficient grounds, he was sure that neither the India Government, nor the Court of Directors, would refuse to reconsider the decision to which they had come. They must not, however, lose sight of the difficulties of the case, nor forget a favourable decision in this case might involve a similar decision in 5,000 or 6,000 others.

THE EARL OF ELLENBOROUGH said, that the noble Duke should recollect that in these particular cases the Commissioners had recommended that the descendants of

the grantee should have one-third of the whole grant in perpetuity.

THE MARQUESS OF CLANRICARDE hoped that inquiry would be made into the whole system of Indian government. It was absurd to talk of the people of India having an appeal to Parliament if their petitions were allowed to remain unnoticed upon the tables and their demands for justice defeated by technicalities. The noble Duke had pleaded a strange plea when he said that the question of the resumption of grants must not be touched at all, and that if all grants were to be maintained they would swallow up the whole revenues of the country, and render government impossible. There might be truth in that plea, but there was no justice—no matter how just was the title to a grant, the exigencies of the State were such that it must be ignored. That was a principle that must be well considered before the Parliament of England could adopt it. Up to 1805, no question of resuming these grants had ever arisen, but soon after that period an opinion was put forth by men, wise and able, no doubt, to the effect that the circumstances of all grants should be inquired into. That proposition was disputed, and a controversy arose upon it. In 1828 an inquiry was instituted, not in the fairest manner. In one case which came before the Privy Council upon appeal the first Commissioner who had been appointed had decided that the grant could not be resumed. The East India Company were not satisfied, and appointed another Commissioner, who decided in their favour. A third Commissioner was appointed, who agreed with the first; but that first Commissioner, in the mean time, had changed his opinion and adopted the views of the second Commissioner. A fourth Commissioner was appointed, and the Indian Government having got two Commissioners to decide in their favour seized the land in dispute and annulled the grant. He begged their Lordships to consider the importance of the subject, and whether it was not necessary, for the maintenance of the good name of this country, to inquire into the justice of complaints such as those put forth in the petition which the noble Earl had presented.

Petition ordered to lie on the table.

THE MILITIA—QUESTION.

THE DUKE OF BUCCLEUCH rose for the purpose of putting to the noble Lord the Secretary for War a question of which

he had given notice. His question was this:—What was the intention of Her Majesty's Government with respect to the Constitution and Pay of the Permanent Staff of Regiments of Militia, and as to the Retention of Acting Quartermasters on the Permanent Staff? He had paid very considerable attention to this subject, and he believed that every single officer connected with the militia, whose opinion had been taken on the matter, concurred in the view which he took as to the importance of keeping up a proper permanent staff for the regiments of militia. Great exertions had been made, both on the part of the Government, and on that of individuals, to bring the militia force of the United Kingdom to a state of efficiency; and he believed he might say that it had been brought to that condition during the late war. However, all the energies in this respect would be wasted and thrown away unless means were taken to retain the militia in that high state of discipline; in fact, unless such steps were at once taken the militia would within a very few months be in the condition in which it was before the breaking out of the late war. For many years before that war there was in reality no militia force in this country. It was quite true that during the entire of that time a permanent staff was kept up; but those staffs were found to be nearly inefficient when their services were most required. The members of those staffs were for the most part old worn-out men, who, having had no opportunity of refreshing their memories as to the duties of active service, had forgotten much of what they had formerly known, and were, therefore, totally inefficient for the duties for the performance of which they were required. He trusted it was not the intention of the Government to suffer the militia to fall again into such a state of desuetude. The inconvenience of such a state of things having become manifest, a very strong opinion had been expressed in both Houses as to the necessity, as well as the expediency, of keeping up a strong militia force; not a mere nominal one, but one that would be really efficient in case of emergency—one with which, in case of war breaking out, this country or the colonies might be garrisoned, or which might be sent—as militia regiments had been during the late hostilities—in service companies wherever the service of fighting men might be required. It was in a condition such as would enable them to fill such positions as that he wish-

ed the militia regiments to be kept; but in his opinion, and that of all militia officers with whom he had conversed on the subject, the numbers put upon the permanent staff under present regulations were not sufficient to keep up the efficiency of the militia regiments; and the consequence would be that in the event of the active service of those regiments being hereafter required, the authorities would be obliged again to have recourse to non-commissioned officers of the line, or to pensioners who had grown rusty for want of active duty. Two sergeants to a company were the present allowance. Now, he thought that number clearly insufficient. The regiments were to be called out for training during a certain number of days in each year. Now, how could they keep up drill duty with two sergeants to a company? Besides this, those sergeants were allowed so small a remuneration—10s. 6d. a week—that they would be obliged to employ themselves at trades, or at avocations other than their militia duties. This was, in his opinion, an unwise arrangement; for those men should give their undivided attention to the duties of their regiments, if those regiments were to be maintained in an efficient state. The pay of the sergeants was too small. They should, at all events, be allowed rations, and a 1d. a day as was allowed to recruiting parties. Without a drum-major it would be impossible to get on, and paymasters and orderly clerks would be required. It had been conceded that quartermasters should be continued in certain regiments at a reduced pay of 5s. a day. Surely, if a quartermaster was required in one regiment, such an officer was required in every other that was to be called out for annual training. There was a regulation requiring persons to accept of a subaltern's commission on being appointed to the office of quartermaster. Now, competent persons had declined to accept the office on such a condition. He trusted that the whole subject of the maintenance of a permanent and efficient militia staff would receive the careful consideration of the Government, for the expense of the maintenance of such a staff would, after all, be but a very trifling matter as compared to the advantage which, in a time of emergency, this country would derive from having ready for service, not a nominal, but a thoroughly efficient militia force.

THE DUKE OF RICHMOND said, that his noble Friend who had just sat down had stated very fairly and clearly to the

The Duke of Buccleuch

House what his views, and he (the Duke of Richmond) believed those of all other militia officers, were, in respect of the subject which he had brought under the consideration of Parliament. Those views amounted to this, that if they wished to have a militia which would be efficient, they must keep up a permanent and efficient staff for that purpose. Now, the adjutants of these militia regiments did not receive as large a remuneration for their services as they ought to do. He conceived that upon the adjutant depended very much the efficiency of the battalion, not only in its drills and manœuvres, but, what was much more important, in its discipline. It was easy enough to command a regiment of militia that had the advantage of an efficient adjutant and efficient non-commissioned officers; but it was not so if there was an inefficiency in these departments. Now, what was at present done to secure the services of efficient men? Many of the adjutants had raised themselves from the ranks by meritorious conduct, and when they came into militia regiments they had no sinecures; yet they might serve in those regiments for ten, fifteen, or twenty years, without any increased pay for length of service. He would ask his noble Friend opposite (Lord Panmure), who had been himself in the army, whether it would not be advisable to increase the pay of the adjutants, in the same way as the pay of the civil servants of the Crown was increased, for long service? He (the Duke of Richmond) did say that the man who had served seven years as a sergeant-major, seven years as an adjutant of a regiment of the line, and three years in a militia regiment, ought to receive some increase of pay. It was of great importance to promote deserving non-commissioned officers of the line; and when they placed those officers in a position in which they should keep up the appearance of gentlemen, they ought to allow them pay sufficient for that purpose. They permitted adjutants to keep a horse; but they did not allow them a man to clean that horse, and those adjutants of militia regiments who had horses must clean them themselves. Should not the adjutants have the service of a soldier for this purpose, as they would have when the regiments were embodied? There was another point to which he wished to draw the attention of his noble Friend, and that was, that some regiments of militia had quarter-masters and some had not. The regiment which

he commanded had a quarter-master, and he would like to know why those regiments which had just come home should not each have one? He agreed with his noble Friend (the Duke of Buccleuch) that two sergeants to a company were not sufficient. The pay of the staff sergeants was only 10s. 6d. a week; and they got clothing only once in two years, while it was made compulsory upon the counties to find lodging for them. He hoped that the Government would increase the remuneration to the sergeants. If the country had come to such a state that it could not afford to keep 100 militia regiments in an efficient state, for heaven's sake let them be reduced to fifty; but let those fifty be kept in an efficient state. During the late war some regiments of militia had not been embodied at all, and it would have been very desirable to draught the men from those regiments into others which were embodied. He was aware that it was said that the 10s. 6d. a week was only intended to be in aid of the income derived by those persons from their usual trade or occupation; but if sergeants were permitted to carry on their usual trade or occupation they would soon become useless for their military duties, and most certainly recruiting for the various regiments would not be carried on properly. He would now say a few words upon what the commanders of militia regiments were obliged to do in consequence of the inadequate pay of 10s. 6d. a week given to non-commissioned officers. They were forced to take old pensioners, who brought into the militia regiments all the different systems under which they had served in the line, and the consequence was great confusion and difficulty. Besides, it would be found that these pensioners did not leave their regiments as long as they were really efficient, and he could assure their Lordships that the non-commissioned officers and adjutants of the militia had far more onerous duties to perform than the same class in the well-regulated regiments of the line. It would be a great boon to a valuable class of men if the permanent staff of the militia were permitted to draw their bread and meat from the contractors at contract prices. No charge would thereby be made upon the country. He hoped the Government would keep the militia in an efficient state. If the sum voted by Parliament would not be sufficient to maintain 100 regiments in a state of efficiency, let the number be reduced, because a small effective force

would be of far more value than a large ineffective one. What he complained of was, that the Government expected the officers in command to keep up those regiments in a proper manner, and yet they did not give the means of carrying out their desires.

THE DUKE OF SOMERSET thought that before their Lordships were asked to consider what should be the militia force in time of peace, they ought to have some information from the Government in regard to the probable expense of the force. When the militia was first embodied an estimate of the cost was laid on the table of the House of Commons, and he wished the Government would now state whether that estimate had been adhered to. Over and over again Motions had been made in the other House with the view of ascertaining what the expense of the militia had really been; but those Motions had uniformly been evaded, and no information had been given by the Government. It would be no easy matter to decide in what form the militia should be maintained, but he apprehended it would be a hopeless task to attempt to keep up a permanent staff in time of peace. That plan was tried before; but the result was, that after a few years the staff became worn out and inefficient. But, before deciding what form the militia should assume, their Lordships should ascertain from the Government what had been from the first the extent of the force and what the expense; they would then be able to judge how far it might be desirable during peace to keep up any portion of the militia. At present there was a strong feeling in the country in favour of the maintenance of an efficient military force; but they might depend upon it that in a few years the pressure of taxation would work a great change in that respect, and therefore it was all the more necessary that nothing should be done rashly or without due consideration.

LORD PANMURE, who was imperfectly heard, was understood to say, that the Government would listen with great attention to the opinions which might be expressed by qualified persons on the subject of the militia. It was the intention of the Government to prevent the militia falling into the condition in which it existed before the late war, and that it was also their intention with that view to call out for training, if not the whole, a considerable portion of the force in each year. They proposed to maintain a permanent

staff, which, although not in itself sufficient to furnish non-commissioned officers for all the regiments, would yet be adequate in time of peace to the discharge of the duties entrusted to it. He could see no objection to a system of that kind, and he could assure their Lordships that the staff would not be stinted in numbers. It was, in his opinion, of the greatest importance that the non-commissioned officers of the militia should, during a state of peace, engage in civil occupations, and, therefore, he could not agree in the remarks which had been made as to the inadequacy of their pay. Their military duties were not sufficient to occupy the whole of their time; and if asked to abstain from other employment—their pay being increased—they would be compelled to spend the greater part of the year in comparative idleness. He saw no great necessity for furnishing them with rations, or allowances in lieu of rations, but the suggestion that they should be permitted to draw their bread and meat at contract prices was worthy of consideration, and might perhaps be adopted. Previously to the late war there were no quartermasters on the permanent staff of the militia; but it appeared to him that their services might be made available in assisting the adjutants to look after the stores. He thought the Government had acted wisely in placing quartermasters on the permanent staff in large regiments, in which there was a quantity of stores; but in small regiments there was not so much necessity for these officers. It was the intention of the Government to maintain, as far as possible, the efficiency of the militia regiments, in order that they might be in a state to assist the line when required; and he could not sit down without remarking how creditable it was to the noble Duke and to the officers in command of most of the militia regiments in the kingdom to have allowed their regiments to be broken up by sending their best men into the line.

THE DUKE OF CLEVELAND said, the regiment with which he was connected had derived great benefit from the appointment of a quartermaster to take care of the stores. He was not aware that there was any difference between acting and permanent quartermasters, and he was therefore much astonished at finding, after the quartermaster of his regiment had acted for two months, that the pay of that officer was to be disallowed. He wished to know whether the Government intended

Lord Panmure

to give any compensation to quartermasters in that position for having discharged their duties for some time without receiving any pay?

THE MARQUESS OF CLANRICARDE also complained that the acting quartermaster of his regiment had been deprived of the advantages to which he was entitled. He wished, also, to know what arrangements had been made for the lodging of the militia in Ireland, and whether the small barracks not now occupied were to be made available for that purpose?

LORD PANMURE, in reply to the noble Duke said, it was well known, when men were appointed to the office of quartermaster, that such appointments would not carry with them appointments on the permanent staff when the regiments were disembodied. If it could be shown that any regiments to which quartermasters had not been appointed had a greater quantity of stores than could be placed under the charge of the sergeant-major, he would take into consideration the appointment of a quartermaster to those regiments. With regard to the question of the noble Marquess, if the Government had barracks not occupied he should recommend that they should be disposed of for the public advantage, and then the counties could come forward and purchase them for the militia.

THE MARQUESS OF CLANRICARDE said, that in the county with which he was connected there were at least six of those barracks; but, surely, the Government would not sell the whole six? It was only two or three years ago that the Government had expended a great sum for building large barracks in Galway, although at the time there were two barracks unoccupied in the same county. The Government had also put a railway company to great expense in order to oblige them to consult the convenience of those barracks, and he believed they had been at law ever since in respect to the question of the building of a bridge for the troops to pass over.

POLAND—QUESTION.

LORD LYNTHURST: Your Lordships will, I hope, allow me, even at this hour, to say a few words explaining the object which I have had in view in putting the question to my noble Friend (the Earl of Clarendon) of which I have given notice. In a recent publication by an eminent foreign statesman, Count Montalembert, he complains in strong terms of the course

pursued by the late Congress of Paris in censuring the Governments of Naples and Greece, and he contrasts that course with the silence which prevailed relative to the wrongs of Poland, which, he says, the Congress would have been justified in taking notice of, both diplomatically and morally, in consequence of the ancient treaties entered into with that country. He enlarges with his usual eloquence upon this subject. My Lords, I am compelled to admit that, as far as appears upon the face of the protocols, there is nothing whatever to show that the affairs of Poland were at all brought under the consideration of the Congress; but I know my noble Friend opposite too well, and I have too high an opinion of his manly and generous character, to suppose for a moment that he could have been silent on such a subject. I am persuaded that such a silence would have been impossible for him. Allow me to recall some of the past circumstances connected with this question. The Congress of Paris represented the Sovereigns, who were also represented in the Congress of Vienna, in 1815. We know very well that one of the most important subjects considered at the Congress of Vienna was the arrangement made with respect to Poland. That subject underwent great and anxious consideration. After a long struggle it was agreed that the duchy of Warsaw should be raised into a kingdom, and that the Crown should be conferred upon the Emperor of Russia for the time being. This arrangement was come to upon the express and distinct condition which was insisted upon with great earnestness by all the parties to the treaty, and perhaps with greater earnestness by Lord Castlereagh than by any one else. The conditions of the arrangement were, that Poland should remain a separate kingdom, that it should never be incorporated with the Russian empire, that its national institutions should be preserved, that it should have a representative assembly, and that the administration of the financial department and of the army should always be kept distinct. These were the terms finally settled by the Congress of Vienna, and which it was thought absolutely necessary to impose. The Emperor Alexander swore to the observance of these conditions. The Emperor Nicholas also swore to the observance of the constitution; but afterwards, regardless of the earnest remonstrances of the allies, regardless of the oath he had taken, he incorporated the territory of Poland in

the empire of Russia, making it an integral part of that empire. From that period until his death the Emperor Nicholas passed a series of laws the object of which was to extinguish the Polish name and character. The works of art in the palace at Warsaw were transferred to St. Petersburg. The two universities of Warsaw and Wilna were totally abolished. The national schools were either abolished or remodelled. Many thousands of the inferior order of nobles were transported to distant parts of the Russian empire. The language of Russia was ordered to be used in administering the laws throughout the whole of Lithuania, and it was ordered that in every school of the empire there should be some person to instruct the people in the Russian language. The Polish dress was prohibited, and all the inferior orders were commanded to wear the Russian dress. All these circumstances must have been present to my noble Friend at the time of the Congress, and the more so that last year, before the war terminated, the allied Powers were engaged in forming a Polish Legion which was to have been commanded by the most eminent of the Polish exiles. My Lords, under these circumstances it is impossible to suppose that my noble Friend opposite could have been silent on the subject to which I have referred. I have no doubt that he must have brought this subject under the view of the Plenipotentiaries of Russia at the Congress, and that he must have earnestly remonstrated on the subject. I entertain no doubt as to the course which my noble Friend pursued; but I fear the result has been unsatisfactory, and that no beneficial issue has resulted from the representations of my noble Friend. So far from that being the case, the Government of Russia has taken elaborate pains—if I may so express myself—to furnish proof, for the purpose of convincing Europe and the inhabitants of Poland that she will not allow any intervention with respect to that territory or with respect to the mode in which it is governed. I refer to what has recently taken place at Warsaw upon the occasion of the entry of the Emperor into that place, and to the language which he held to the two assemblies who met him to welcome him. Upon that occasion he addressed the nobles and the clergy in a speech which was very short, very precise, and very emphatic. He said nothing would induce him to depart from the policy of

his predecessors with respect to Poland. He said it was for the interest of Russia that Poland should form part of the Russian empire—of the Russian family. He added, that it was also for the interest of Poland. This was followed by murmurs. He said—

“Entertain no illusions; or, if you do entertain illusions, let them only lead to noble aspirations; for if they go beyond that I, who can reward can punish. I know how to punish, and, if necessity occur, I will punish. Above all,” he said, concluding his speech, “no visionary dreams—no visionary dreams.”

Nothing could be more marked than this speech—nothing more marked than the policy he intended to adopt; and I must regret, whatever passed between my noble Friend and the Plenipotentiaries at the Congress, that it was attended with no beneficial results. But this is only one part of the subject to which I have to call your Lordships’ attention. My noble Friend expressed at the Congress a strong and earnest desire that an amnesty should be granted by the King of Naples for political offenders. It is impossible to suppose for a moment that my noble Friend should not at the same time have urged in the strongest terms the desirability of granting an amnesty for the Poles. My noble Friend gives no sign of assent at this moment, but I am persuaded my noble Friend must have urged the necessity of that amnesty. My Lords, what is called an amnesty has in truth been granted. What is called, I say, for it “keeps the word of promise to the ear, but breaks it to the hope.” Everything which deserves to be called an amnesty should be of a comprehensive character—of a generous character. It should be precise in its terms. As to exceptions, they should be distinct and clear, and the exceptions should be of such a nature as to be justified in the opinion of the world. Try this amnesty by this test. It is stated that those persons who partook of its benefits on their return to Poland shall be free from indictment and prosecution. But under what circumstances are they to return? What are the limitations surrounding it? Every person who desires to return shall in the first instance present a petition. He must state in that petition under what circumstances he left the territory of Russia, and he must state minutely everything which has occurred to him from that period down to the moment of his petition. If the officer of the Government

Lord Lyndhurst

is satisfied with this explanation, then only is he permitted to avail himself of the amnesty; his civil rights are restored. But, my Lords, we all know and we all remember, that there was a sweeping confiscation of the property of all emigrants. Not a single word is said about the restoration of property or any part of it; so that a man who is allowed to return, returns houseless, distressed, outcast, and penniless. Such is the amnesty, so far as the return to the country is concerned. But what is his situation after his return? He is to be for three years under the *surveillance* of the police. Everybody knows and feels what must be the position of a person for three years under the *surveillance* of the Russian police. If after the expiration of that time, the report is favourable, he is then allowed to be a candidate for official employment. What are the exceptions? Exceptions, my Lords, as I stated before, should be precise and well-defined. These exceptions are most vague and unsatisfactory. I find that no person shall be allowed to return who has exhibited a spirit of hostility against the Russian Government; and who is to decide upon what may be a spirit of hostility against the Russian Government? The officers of the Russian Government. What can be more unsatisfactory than a provision of this kind. But there is one other point to which I would call your attention. We know that in the struggle for the liberty of Poland some of the most distinguished inhabitants of Poland were taken prisoners, and sent on foot in chains to the deserts of Siberia. No part of the amnesty comprehends any of that class of persons. I have heard that some persons are surprised that the most eminent of the Polish exiles have refused to avail themselves of this amnesty. They have stated their reasons in a document which lies upon your Lordships’ table. They say, “We do not object to this amnesty from personal considerations or feelings, but on principle; for if we avail ourselves of this amnesty, we shall admit the injustice of our conduct in struggling for the preservation of the liberties of our country, and we shall admit the justice of the proceedings taken against us.” Upon those grounds, therefore, they refused to avail themselves of it, and, in doing so, I think they acted with the greatest possible propriety. If my noble Friend did exert himself in the Conferences, the result of his interference must

be not only mortifying to him but offensive to the Government which he represented. It may be said, and I dare say will be said, that it is very inconvenient that I should bring forward a question of this kind at the present moment; but I do not incline to that opinion. I am in no way connected with the Government. No one is responsible for anything which falls from me. I am not speaking as the representative of any party. I am speaking my own opinion, and I am sure, in speaking that opinion, I am speaking the opinion of every wise and temperate man in this country and on the continent of Europe. I feel it is a duty that every person who is placed in a position where his voice can be heard should raise his voice in denouncing injustice, tyranny, and oppression. To commit injustice is a crime; to treat it with silence is to participate in the criminality; and that must be my justification for the course I have taken. I wish, therefore, to put to my noble Friend, in point of form, the question of which I have given notice—that is, whether the Secretary of State for Foreign Affairs has received any official communication of the recent Act of amnesty issued in favour of the Polish exiles by the Emperor of Russia; and, if so, whether he will lay a copy of it on the table of the House?

THE EARL OF CLARENDON: My Lords, when the amnesty to which my noble and learned Friend has called the attention of your Lordships was recently issued, we had neither diplomatic nor consular agents of Russia in this country. Her Majesty's Government have consequently not received a copy of this document, for the correctness of which they can vouch; but that amnesty has been published in all the newspapers, and I have no doubt that which is published is correct. My noble and learned Friend certainly requires no apology on his part for bringing this question under your Lordships' consideration. He says truly, he is speaking as an independent Member of this House—that he belongs to no party—that no one is responsible for what he says; but he considers it his duty to lift up his voice against what he characterises as injustice and oppression. I think my noble Friend is at full liberty to take the course which he has taken. I am, however, sure he will understand that the responsibility which weighs on me in the office which I hold prevents me following him in those remarks, or characterising

the acts of a foreign Government by such terms; and I am further restrained by the belief that the cause of the Poles would be prejudiced rather than served by my doing so. In answer to my noble and learned Friend, I have to assure him that, being fully alive to all those circumstances in Polish history to which he has referred, and which are familiar to your Lordships, the British Plenipotentiaries, in conjunction with the French Plenipotentiaries, had determined to bring the question of Poland before the Congress, together with other matters of general and European interest, after a treaty of peace had been disposed of. We had every reason to believe that the intentions of the Emperor of Russia towards Poland were generous and benevolent. We believed that the Emperor was prepared to grant a general amnesty, to restore certain national institutions to Poland, to recognise the religion and language of Poland, and to place education in Poland upon a larger and more national footing. We believed, in short, that it was the intention of the Emperor of Russia to depart from that harsh system which has hitherto prevailed in the Government of Poland; and it was with these expectations weighing upon us that we determined to bring the subject before the Congress. But at the same time we felt it to be our duty to make inquiry as to what might be the result of that proceeding on our parts. We believed that, although the Russian Plenipotentiaries might deny our right to interrogate them, and might say, in reply to our demands, that they were not there to answer any inquiries we might make respecting the internal administration of a portion of the Russian empire; yet we did think it might not be inconsistent with the policy of the Emperor of Russia, and might form a fitting collateral termination to the labours upon which we were engaged at Paris, that he should have authorised his Plenipotentiaries to announce to Europe the intentions he entertained towards Poland, and the mode in which they were to be carried into effect. But when we found that this would not be the case, and that any proceeding on our part was likely to lead to misrepresentation in Russia, and would interfere with those acts of clemency for which certainly the Emperor of Russia had a right to choose his own time, and which as certainly would lose much of their grace if it were supposed that they had been suggested or promoted by those Powers

with whom he had lately been at war—when we found that such would be beyond all doubt the case, the French and English Plenipotentiaries departed from their previous determination, and they said nothing about Poland, not because they were indifferent to the fate and the futurity of Poland, but because they believed that in the present instance it would be for the interest of Poland itself to remain silent. That was the course we pursued, or rather those are our reasons for not pursuing the course which my noble and learned Friend seems to think we ought to have followed. Certainly, after the expression of clement intentions on the part of the Emperor of Russia upon his accession to the throne, I, for one, did look for a realisation of those intentions, and, in common with every one else, I have felt disappointment at this so-called amnesty. I am unable to account for what has led to an act of clemency so restricted in its nature, and which must be inoperative; but I do know that the mere rumour of a real and general amnesty produced the greatest enthusiasm in Warsaw in favour of the Emperor, and justified the belief which was entertained in Paris that a large measure of this kind would be completely successful and would render the Polish subjects loyal and grateful, instead of being a source of trouble and anxiety. I say, the mere rumour of an amnesty produced enthusiasm in favour of the Emperor of Russia, and I cannot but think that that manifestation of feeling must have been gratifying, and, if I may presume to say so, encouraging to him; because, as far as we know the Emperor's character, judging from all matters over which he personally presides, he is just and generous. He is, so far as we know, alive to the sufferings of his people, he desires to promote their happiness and prosperity, and he is deeply sensible of the responsibility which weighs upon him in governing a vast empire which is entirely dependent upon his will. Therefore, my Lords, if we are correct in our estimate of the Emperor's character, I cannot believe that Poland has not something more to hope for and to expect from him than this amnesty which my noble Friend has brought under our notice. But, my Lords, I must say I believe that if the Emperor does intend doing anything for Poland it must be spontaneous, and I believe that that country would derive little benefit from either Parliamentary discussion or the expression of individual opinion.

The Earl of Clarendon

THE CHELSEA COMMISSIONERS' REPORT—QUESTION.

THE EARL OF LUCAN said, he had put a question to the noble Lord the Secretary for War, on a previous evening, the answer to which was not satisfactory. The Report of the Chelsea Commissioners, to which he had referred, had been, he believed, placed in the hands of Her Majesty on Monday last, although the noble Lord on Tuesday stated that he was not aware whether it had been presented or not. If, however, it had been presented to Her Majesty, he wished to know why it had not already been laid upon the table of the House. The noble Lord had led the House to believe that there was something still to be done before the Report could be published; that at some subsequent stage after receiving Her Majesty's approval it would have to receive the sanction of the Government. He (the Earl of Lucan) thought it was only right and just to himself and other officers that the Report should be placed upon the table and published to the country at the earliest possible moment. He wished to ask the Secretary of State for the War Department, When Her Majesty's Government would lay before Parliament the Report of the Chelsea Board of General Officers?

LORD PANMURE agreed with the noble Earl that it was only an act of justice towards those officers whose conduct had been impugned, and at whose instance the Board of Inquiry had been constituted, that the Report of the Board should be made public at the earliest possible moment. The noble Earl had asked him a question upon the subject on Tuesday last, at which time he (Lord Panmure) was not aware that the Report had been presented to Her Majesty, and he answered accordingly. However, it appeared the noble Earl was better acquainted with what passed between Her Majesty and the Commander-in-Chief than himself, for it proved to be a fact that on Monday last the Commander-in-Chief did present the Report, and was in the act of explaining some portion of it to Her Majesty, when he was seized with the illness under which he still laboured. That Report was presented in manuscript, and was unaccompanied by the evidence upon which it was based, and to which it constantly referred. The evidence was now added; but Her Majesty, being anxious to make herself acquainted with that Report, had not yet sent it to him (Lord Panmure), and therefore, up to

the present moment, the Government was not in possession of it. The course which the Government proposed to follow in regard to the Report was based upon the precedent of the inquiry which resulted from the Convention of Cintra. The Commissioners reported to the Commander-in-Chief, and, through him, to the Sovereign, who then referred the Report to Her Ministers for any advice thereupon which they might deem it their duty to submit. That was the course which the Judge-Advocate had pronounced to be regular and according to precedent, and which the Government intended to adopt. When the Report should be sent to the Government they would take it into consideration, so far as it was their duty to do so, before they gave any advice to the Sovereign upon the subject.

THE EARL OF LUCAN said, that from what had fallen from the noble Lord he did not see the slightest prospect of justice being done to those officers at whose instance the inquiry was instituted; therefore he should give notice that he would move an Address to Her Majesty on Tuesday next for the papers.

House adjourned to Monday next.

HOUSE OF COMMONS,

Friday, July 11, 1856.

MINUTES.] NEW MEMBER SWORN.—For Calne, Sir William Fenwick Williams, bt.

PUBLIC BILLS.—1° Lunatic Asylums Act Amendment; Imprisonment for Debt.

3° Unlawful Oaths (Ireland); Railway Act (Ireland), 1851, Continuance; Turnpike Acts Continuance (Ireland); Criminal Justice.

RULES OF THE HOUSE—QUESTION.

MR. MILNER GIBSON said, he wished to put a question to Mr. Speaker upon a matter affecting the proceedings of the House. There was a difference of opinion as to the privilege which Members had in raising discussions upon the different stages of the Appropriation Bill. It was contended by some that Members had the same right at the different stages of the Appropriation Bill that they had upon Supply, seeing that the Appropriation Bill was in fact to give legal effect to the Votes in Supply, and the application of the public money. There were others who seemed to be under the impression that upon the different stages of the Appropriation Bill they were limited to observations simply

on the clauses of the Bill. He was anxious, for the guidance of the House, that the right hon. Gentleman should tell them what the rule was. He perceived by looking back that there had been various proceedings taken on the stages of that Bill. Last year, on the third reading of the Bill, the noble Lord the Member for London (Lord J. Russell) introduced the whole question of our foreign policy, and the Italian question, and the Prime Minister also made a long speech on foreign policy on the same occasion. On a previous occasion the late Mr. Lucas brought on the unequal operation of the income tax in one of the stages of the Appropriation Bill. It was most important that they should adhere to their rules, but at the same time that they should depart from no constitutional privilege which they had enjoyed.

MR. SPEAKER: In answer to the question of the right hon. Gentleman, I have to state that Members have no more privileges with respect to the Appropriation Bill than with reference to any other Bill before the House, and that any observation which they may wish to make, and any Amendments which they may wish to propose, on this Bill, ought to be strictly relevant to the question before the House. As the right hon. Gentleman has been kind enough to give me notice of the question which he has put to me, I have been able to refer to the Report of a Committee of which I had the honour to be a member in 1837, and on which also the noble Lord the Member for London (Lord J. Russell) and the right hon. Gentleman the Member for Carlisle (Sir J. Graham) sat. That Committee was appointed to consider the state of public business at that time, and I have no doubt it will be in the recollection of many hon. Members, that a very inconvenient and irregular practice had been introduced of moving Amendments upon the Orders of the Day. Members asserted that they had the right upon the Question that an Order of the Day be read, of moving any Amendment they thought proper, and if the right hon. Gentleman (Mr. M. Gibson) will turn to the Report of those proceedings, he will find that most of the Amendments to which he has referred were Amendments on the Orders of the Day. The Committee consulted the then Speaker, Mr. Abercromby, and all those persons connected with the House of Commons who had had the greatest expe-

rience in Parliamentary matters, and I will read to the House a paragraph from their Report bearing on this question; but I must first explain that the Committee recommended that this practice of moving Amendments on the Orders of the Day should be discontinued, and that there should only be two Amendments allowed on this question—namely, that the other Orders of the Day should be read, or that some particular Order should be read. They proceed to state:—

“Your Committee have been given to understand that, according to the practice now followed, it would be considered disorderly to interpose upon this question (unless, of course, with the excepts stated of a Committee of Supply or Ways and Means), by interposing any question not strictly relating to the Bill, which the House by its Order has resolved upon considering; and they have therefore deemed it unnecessary to provide against the occurrence of an attempt to disturb this course of proceeding, although they wish strongly to impress upon the House the propriety of maintaining what they deem to be the established practice at present, should any attempt to interfere with it be made.

This I take to be a clear statement of the rules of the House, and that Members have really no greater privileges with reference to the Appropriation Bill than on any other Bill. With reference to the speech made by the noble Lord the Member for London last year, to which the right hon. Gentleman has alluded, the noble Lord, I remember, put himself in order by referring at the commencement of his speech to certain votes in the Appropriation Bill, upon which the noble Lord founded the observations he then made.

MR. ROEBUCK: Was that recommendation ever affirmed by a Resolution of this House?

MR. SPEAKER: That Report was framed after great consideration. It stated what was the rule of the House at that time. That rule has been maintained ever since, and it is a rule which I shall consider it to be my duty to maintain until the House shall otherwise order.

THE INDIAN SALT DUTIES—QUESTION.

SIR JOHN PAKINGTON said, he wished to ask the right hon. Gentleman the President of the Board of Control, whether it was the intention of Her Majesty's Government, in consequence of the Report from the Commissioner appointed to inquire into the system of manufacturing salt in India, to effect any change in the present salt monopoly of the Indian Government in the Presidencies of Bengal

Mr. Speaker

and Madras, or to lower the rates of duty on salt.

MR. VERNON SMITH said, that the Report alluded to by the right hon. Baronet was not yet completed. A great portion of Bengal had not yet been reported on, but when the Report was completed it would be the duty of the Indian Government to consider the whole system with a view to its revision. The Commissioner was a man of great experience and authority, and no doubt the steps taken by the Indian Government would be in conformity with his Report.

THE SADLEIR FRAUDS—QUESTION.

MR. MACARTNEY said, he begged to ask the right hon. and learned Attorney General for Ireland the name of the magistrate before whom any informations were sworn, the date of the same, and the day upon which a warrant was issued for the apprehension of Mr. James Sadleir?

SIR GEORGE GREY said, if he might be allowed to interpose between his right hon. and learned Friend and the hon. Gentleman, he would take the liberty of pointing out the great inconvenience of putting questions of this kind when it was not in the power of the right hon. and learned Gentleman to whom the question was addressed to enter into a full explanation of the circumstances pending a criminal prosecution. Independently of that consideration, the right hon. and learned Gentleman the Attorney General for Ireland had just received information from Ireland that a statement had been made that morning by the Master of the Rolls from the bench, bringing several charges of a grave character against his conduct in the administration of his office as Attorney General. If any Member of that House should think fit to bring any specific charge against the right hon. and learned Gentleman, he was prepared to give a complete answer to it in that House, but if no hon. Member was prepared to embody his suspicions, if he might so call them, in the form of a Resolution, to be submitted to the House; then, the right hon. and learned Gentleman, as soon as he could obtain an accurate copy of what had fallen from the learned Judge, would himself be ready to bring forward the question in that House, and would give the House a full and complete explanation of the course which he had pursued. In the meantime, he hoped the House would not call upon the right hon. and learned

Gentleman for any statement, either in reference to this question or in reference to the notice which had been given by a right hon. Gentleman for to-night, which it was the opinion of the Government it was inexpedient, under the circumstances of the case, that he should make.

MR. MACARTNEY said, he must beg to explain that the reason of his putting the question was in consequence of an apparent discrepancy in the dates mentioned by the right hon. and learned Gentleman (Mr. J. D. FitzGerald).

CENTRAL AMERICA—QUESTION.

MR. MILNER GIBSON said, that it had been publicly stated by the officer of a company, called the Central American Commercial and Agricultural Company, that he had in his possession a letter from the Secretary of State for the Colonies, setting forth definitively the limits of the British settlement of Belize and its dependencies. He wished to ask the right hon. Gentleman the Secretary of State for the Colonies whether that document was in existence, and if it were, whether there would be any objection to lay it on the table of the House?

MR. LABOUCHERE said, that in the year 1836 a letter was addressed by his right hon. Friend the Home Secretary (Sir G. Grey), who was then Under-Secretary for the Colonies, to a Mr. Coxe, in which he stated what were at that time the views of the British Government with regard to the limits of the settlement of Belize. If the right hon. Gentleman moved for the production of the letter, there would be no objection to lay it on the table.

MR. MILNER GIBSON said, he would then move for the production of a copy of the letter.

Motion agreed to.

THE ROYAL ENGINEERS IN THE CRIMEA.

On the question that the House at its rising should adjourn till Monday.

CAPTAIN LEICESTER VERNON : Sir, I rise pursuant to notice to call the attention of the House to the services of the corps of Royal Engineers in the Crimea. I do so because there is a disposition abroad to depreciate the services of the British army in the Crimea. I think it high time that something should be done to counteract this tendency to detract, and I believe that my statement

this evening will be a step in that direction. No detractor has ventured to question the courage and the conduct of the British soldiers of the general service. So far as the special corps are concerned, I have never heard any one bold enough to say the British Artillery was second to any in the world, and my statement this evening, I trust, will show that the British Engineers were equal, to say the very least, to any body of Engineers that ever took the field. The war that has just terminated, unlike any other modern war on record, narrowed itself into one mighty siege. The victory of the Alma was but the introduction to the siege of Sebastopol, and the battles of Balaklava, of Inkerman, and of the Tchernaya, were but futile attempts on the part of the Russians to raise that siege. A fortress important rather for its uses than for its strength—a fortress so low in the scale of scientific defence that it was supposed, erroneously enough, to be open to a surprise, so moderately fortified that it was considered liable to the affront of a *coup de main*, became, under the pressure of circumstances and by the mere force of earthworks erected by the genius of Todleben, one of the strongest places on record, and held at bay for eleven months the chivalrous valour and the military science of the world. This war, then, being a siege, it follows that the battle was fought by science. It was a war of engineers, and I rise in my place to claim for the British Engineers their full share in the achieving that great result which has brought about the peace. There were three great turning points on which the success of the war depended. First, there was the selection of a place of landing in the Crimea; secondly, there was the decision as to which front of Sebastopol should be attacked—for we were not in a condition to invest the whole, according to the real acceptation of the term; and thirdly, and most important, was the discovery of the key to the position of the front to be attacked. Now, Sir, I may at once avow that I claim for the British Engineers the decision on all these three points, and I shall confine myself, as much as possible, to proving that this was the case. I must trust to the indulgence of hon. Members while I place historically before them these three questions in their relative positions. It will be seen at a glance that this question widens itself from a corps question

into a national one. What I now say, by the aid of the press, will be spread far and wide. What I now say will, doubtless, by many be impugned, and it therefore behoves me to start on a proper base, and to go on adding fact to fact in order to be able to defy all contradiction. In January, 1854, on account of the appearances in the East, Colonel Vicars, with three engineers, left England to place themselves under the orders of Admiral Dundas, who commanded in the East. At Gibraltar, Colonel Vicars was taken ill, and the command devolved upon Captain Chapman, now Colonel Chapman, whose distinguished services I have had occasion previously to bring under the notice of the House. These officers joined the fleet in the *Bosphorus*, and were despatched to reconnoitre the strong position of Maidos, near the Dardanelles. Now, at this juncture the home authorities were without any precise information with regard to the East. In this dilemma, Sir John Burgoyne, whose high position as Inspector General of Fortifications, might well have excused him from the arduous undertaking, volunteered his services, at this inclement season, to proceed to the East, to make military observations of such forces as should be sent by the allied French and English armies in support of the Turks, in the event of a war with Russia which then appeared imminent. His services were accepted with eagerness. On his way through Paris the Emperor Napoleon associated with him, Colonel Ardant, an officer of French Engineers. These two officers proceeded together to the Dardanelles, and inspected the position of Maidos, and afterwards of Boulahir, preferring which latter the officers of Engineers were withdrawn from Maidos to reconnoitre Boulahir, which they did in that inclement season, the snow being then deep on the ground. Sir John Burgoyne and Colonel Ardant then proceeded to Constantinople to reconnoitre the position of Bujukchekmedji, about twelve miles from Constantinople, a strong position, intended to be made the base of operations and to cover Constantinople. Colonel Ardant went forward to examine the position of Kara-su, where strong lines of defence were available, connecting the sea of Marmora with the Black Sea. Sir John Burgoyne meantime went to Shumla to confer with Omar Pasha, and he reconnoitred and reported upon Varna. Thence he returned to England, leaving Colonel Ardant

Captain Leicester Vernon

at Gallipoli. Now, while Sir John Burgoyne was at Constantinople, there was presented to him a project for the defence of that town by certain French officers attached to the embassy—these lines of defence were to pass from the Sea of Marmora to the Golden Horn, and from that to the Bosphorus, passing within a mile of the suburbs of Constantinople. The ground no doubt was ably taken up, but Sir John Burgoyne at once pointed out that it was faulty, because it passed close to an enormous population, and a city liable to conflagration as Constantinople notoriously was; but the principal objection, however, was, that it abandoned to the enemy the Bosphorus, which was our only means of communication with the Black Sea. This plan of defence, therefore, was abandoned in favour of that of Kara-su, which in every point resembled the lines of Lisbon, with a similar advantage of the stronghold of Bujukchekmedji. War being at length declared, the allied army was sent to Gallipoli, and took up the intrenched post of Boulahir; they then proceeded to Constantinople, leaving a small force to occupy Gallipoli. The Russians having made no impression on the Danube, notwithstanding their vast military resources, and the allied armies having advanced to Varna, in support of the Turks, the proceedings of Sir John Burgoyne and of Colonel Ardant were criticised as being too cautious and unenterprising, by taking up a defensive position for Constantinople and the Dardanelles; but it must be remembered that at that time the war had not begun, and it could not have been supposed that the Russians, who, in so arrogant a manner, had forced on the war, should have been held entirely in check by the Turks; and it was therefore requisite that Constantinople should be protected, and the Dardanelles, without which there were no means of communicating with the Sea of Marmora, the Bosphorus, or the Black Sea, which latter was at that time in the possession of the Russian fleet; in a word, it would have been impossible to trust an allied army in that country if such a strong position as Gallipoli and its adjacents had not been found. Such was the opinion of the Emperor Napoleon, and, what is more to my purpose, such was the opinion of Sir John Burgoyne. In August, Sir John Burgoyne was sent out to command the engineers in the Crimea, and was placed upon the staff. In September

the army embarked at Varna for the purpose of invading the Crimea. And now, Sir, I come to the first point I wish to prove, namely, the selection of the part of the Crimea in which the landing was to be effected. A council of war assembled on board the *Caradoc*. It was attended, on the part of the French, by General Canrobert, by Colonel Trochu, one of the French staff, and by General Bizot, the French engineer; and on the part of the English, by Lord Raglan, by Sir George Brown, by Sir Edmund Lyons, and by Sir John Burgoyne. The French held the opinion that the best place to land was at the mouth of the Katcha, and I believe that Sir George Brown coincided with that opinion, but he said, "Before coming to a decision on this point, I think we ought to know the opinion of Sir John Burgoyne, who has had more practical experience than any other officer present." On this Sir John Burgoyne declared that the Katcha was not the proper place to land, that it was a difficult and defensible ground, and close to the resources and reserves of the Russians, and he pointed out, on the other hand, that the safest place for the allied forces to land was at the Old Fort. Sir John Burgoyne's representations were made known to Marshal St. Arnaud, who at once grasped the idea and consented to the proposition. The landing, therefore, was safely effected at the Old Fort, and Eupatoria in the rear was seized and occupied. The abandoning of the idea of landing at the Katcha was very distasteful to some of the officers of the French staff, but when that place fell into our hands, it was seen that Sir John Burgoyne's estimate of the difficulty was right, and that an attempt to land there would most probably have been followed by failure and disaster. I therefore think, Sir, that I have now proved my first point, and that I have a right to claim the selection of the place of landing for the British engineers. I come now, Sir, to my second point—that is, the selection of the side on which Sebastopol was to be attacked. After the battle of the Alma the troops advanced towards Sebastopol, across the rivers Katcha and the Belbek. Now, the intention of the French, and for which they had prepared projects, was to attack Sebastopol on the north side. Sebastopol on the north side was situated on a promontory, and its defences were placed on rocky heights, having in front of them

strong ground of a very defensible character, narrowed by the bay of Belbek on one side and the broad and deep valley of the Tchernaya at the head of the harbour on the other side, the promontory being dominated by a strong permanent work called the "Severnaia." Now, Sir John Burgoyne did not think that the north side of Sebastopol was the side to be effectually attacked; he rather held to the opinion that it should be attacked on the south side, and he wrote a Report to Lord Raglan, giving his reasons for holding that opinion, an extract from which Report I will now, with the permission of the House, proceed to read—

"The communications with the fleet, whence all resources were necessarily obtained, would be from the fine bays and harbours of Balaklava, Kamiesch, and Kazatch, instead of from an entirely open beach, which was alone available on the north. The fronts that were exposed to attack were extensive, and, though naturally of great strength, were not more so than that of the north, which was limited, and, consequently, admitted of defence after defence. The south side covered the docks, barracks, and all the great establishments of the place; whereas, if the north promontory were obtained, there was the harbour still intervening, which could not be crossed by any means; and the only resource would have been a bombardment, and not possession. In rear of the encamping ground to be occupied by the allies in front of Sebastopol on the south side was a compact and most powerful position facing the country, and the communication to it from the harbours was direct and comparatively short, while on the north there was no favourable position on the land side; the ground to cover the camp and landing places must have been of enormous extent, for that landing could not have been nearer than the Katcha, as the Belbek was commanded by the enemy's batteries, and the communication would have been much longer, and over two heights instead of one. The enemy, if attacked on the north, having but one front of the garrison, of moderate extent, to cover could have greatly increased the outer field army for raising the siege. In thoroughly considering every circumstance, it is impossible to conceive how the operations could possibly be sustained against the north side; nor how the army, were it to remain there, could avoid some frightful catastrophe."

This Report, Sir, was sent to Marshal St. Arnaud; and that officer, with his usual sagacity, accepted the idea, and consented to attacking Sebastopol on the south side. Then came the question, how was that to be done? If there be one axiom in war more cogent than another, it is that an army should never separate itself from its base; and if there is any other axiom equal to that in cogency, it is that a flank march should never be made in the presence of a powerful or victorious enemy.

Yet, at first sight, it would seem that the proposition of Sir John Burgoyne, who said "March boldly from the north to the south," embraced both these military errors; but it was not so in fact. He proposed to leave one base, but the base moved, so that he should fall upon it again; and the flank march to enable him to reach the south side of Sebastopol was not made in the face of a victorious but in the rear of a flying and disorganised enemy, and it would place the allied army between Menchikoff and Sebastopol. The movement was, therefore, undertaken, and the army sat down before Sebastopol, never to rise from it again till it left that place and its defences a shapeless ruin. I think, Sir, therefore, that I am entitled to say that I have proved my second point, and that I have a right to claim the selection of the side on which Sebastopol should be attacked for the British Engineers. The siege was now commenced with scanty military means. There were only 300 or 400 sappers where there should have been as many thousands—for it should be remembered that behind the earthworks at Sebastopol was ranged the whole military power of Russia—and where, if there had been as many thousands, it would have saved thousand of lives and millions of money to the Allies. There were eighty officers of Engineers sent to the Crimea; of these forty-three were killed, wounded, or put *hors de combat*—a wholesale slaughter without a parallel. Many of these officers passed in that inclement season, and under what the French call "fire of hell," 100 nights in the trenches, making nearly a third of the whole time of the siege. Under that fire the executive officers, Chapman and Gordon, erected batteries of so substantial a character that they were not damaged by the fire of the enemy. The British artillery destroyed the fire of Todleben, the Russian artillery swept from the face of the earth the French batteries, but no missile hurled against the English batteries stopped for one single moment their steady, sure, and onward course. I shall now come to my third point. From the first reconnaissance of Sebastopol, Sir John Burgoyne perceived that the Malakoff was the key to the position of the front attack, and he so represented it to Lord Raglan. After the battle of Inkerman he again impressed on the authorities that the Malakoff was the place to be attacked. Upon the arrival of General Niel, the

Captain Leicester Vernon

French aide-de-camp of engineers to the Emperor, a council of war of the allied engineers was held; at that council of war Sir John Burgoyne again represented that the Malakoff was the key to the position, and that it should be attacked. After the council of war had been held, wishing to place on record his opinion he reduced it to writing, and, through Lord Raglan, sent it to the French engineer General Niel. The following day General Niel called a council of French engineers to take under consideration Sir John Burgoyne's memoir—they prepared a *procès verbal* of what there took place, and sent a copy of it to Lord Raglan for Sir John Burgoyne's information. The first paragraph of that *procès verbal* stated that the Malakoff should be attacked in compliance with the opinion of Sir John Burgoyne. The words used were these—

"Il résulte des dispositions adoptées en conseil, et suivant le vœu exprimé par le Lieutenant Général Sir John Burgoyne, que des travaux d'approche devront être exécutés devant la tour Malakoff, afin de pouvoir attaquer, par ce point dominant, le faubourg de Karabelnaia, en même temps qu'on donnera l'assaut à la partie ouest de la ville."

I think, therefore, Sir, I have a right to say that I have made out my third point, and that I am justified in claiming the discovery of the key to the front attacked for the British Engineers. Now, Sir, that I have established the claim of the British Engineers to the merit of deciding on the three turning points of this war—they forming a part, and an important one, of the British army—what becomes of the case of those who would seek to depreciate the services of the British army in the Crimea?

Subject dropped.

THE MASTER OF THE ROLLS AND THE ATTORNEY GENERAL FOR IRELAND.

MR. NAPIER: Sir, an appeal has been made to me not to put a question of which I have given notice, and which has reference to a charge made a week ago in this House against one of the Judges of the land, a very esteemed Friend of mine. With that request I unfortunately cannot comply. I heard my friend charged by the right hon. and learned Gentleman the Attorney General for Ireland, with disregard of the obligation of his oath as a Privy Councillor. To that charge I listened with the deepest pain; but I did not interpose, because I thought that it

would be better to wait until I was in full possession of all the facts of the case. Of these facts I am now completely master, and, being so, I am prepared for any investigation which it may be thought right to institute, yet I am now to be told that inquiry is inexpedient, and that my mouth is to be closed, and that I am not to rebut the charge of the right hon. and learned Gentleman. Sir, I must protest against such treatment, and I confidently rely on the sense of honour and justice which distinguishes this House. I stand up not so much to repel the charge of the Attorney General for Ireland—though that also I am prepared to do—as to defend the right of an absent man—a man of as high honour as ever sat in this assembly—a man of unblemished character and unimpeachable integrity, and one of whose friendship I have ever been proud. I rise, Sir, to solicit the privilege of making a short statement, and of putting to the Attorney General for Ireland this simple question—whether he is prepared to abide by the charge which he made in this House a few evenings since against my right hon. and learned Friend the Irish Master of the Rolls? If so, I am prepared to meet him on that point. I will meet him anywhere—in this House or out of this House, and I will fearlessly declare what I honestly believe—that his charge is wanton and unfounded. That charge is, that there has been on the part of the Master of the Rolls, a disregard of the obligation of his oath as a Privy Councillor. I have myself the honour to be a Privy Councillor, and so, too, have the Lord Chief Justice of the Queen's Bench in Ireland, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron, and my learned friend Mr. Brewster. We are all Members of the Privy Council, and it is essential to our honour that it should be distinctly understood what are our duties and obligations as such, for it would appear, according to the doctrine laid down by the Attorney General for Ireland, that it is part of our duty to go as informers to the Castle of Dublin, and, if we are Judges, to lay before the Lord Lieutenant the particulars of the cases which may have come under our judicial cognisance, with a view to the institution of criminal proceedings. According to the doctrine of the right hon. and learned Gentleman the Attorney General for Ireland the Master of the Rolls, who, by his assiduity, acuteness, and great learning, had unravelled a most notorious fraud, was

bound under the obligation of his oath as a Privy Councillor to put the Irish Executive in motion, and to lay before them such information as would have induced them to interfere, in order that the criminal—a Member of this House—might be brought to justice. The case of the Attorney General for Ireland is, that a crime was committed; that the criminal has fled, and is no longer amenable to the law; and that his facilities for flight and the consequent miscarriage of justice are to be attributed to a disregard on the part of the Master of the Rolls of his solemn oath as a Privy Councillor and of his duty towards his Sovereign. Sir, I heard that accusation with profound indignation, but I have now obtained an accurate knowledge of all the facts, and I am prepared to abide by any decision that the House may pronounce on the statement I am about to submit. On the 3rd of March, the affairs of the Tipperary Joint-stock Bank came before the Master of the Rolls for Ireland on a Motion under the Winding-up Act. The Master of the Rolls investigated the case with all the patience, diligence, and industry, for which he is remarkable—and that, let me assure you, is saying not a little, for there never sat upon the bench a Judge who was governed by a more intense love of justice. He saw at a glance that there had been fraud of a gross and gigantic character. He investigated it carefully and most minutely, and in the judgment which he delivered on that preliminary motion, he emphatically called attention to the swindling which had occurred, and which affected a large number of persons and a vast amount of property; and he made especial allusion to the fictitious balance-sheet that had been signed by a gentleman who professed to act on behalf of the directors. The observations which fell from the bench on that occasion were canvassed by the public press, and on the 10th of March the leading journal of this country, commenting upon the case, urged the propriety of taking measures to prevent the escape of the parties implicated, and recommended that the attention of the public prosecutor should be called to the subject. Subsequently the matter came under the consideration of a Master in Chancery, on an application relating to certain English shareholders, who had been victimised. The Master heard the case, and certainly he was of opinion—though the facts on which he based that opinion are not known to us—that those

shareholders were liable, and in so deciding he also released other parties from the imputation of fraud. But from that decision, there was an appeal to the Master of the Rolls in Ireland. It came on for argument at the latter end of the month of May, and was earnestly debated by some of the most learned and able men at the bar. I have a shorthand note of the proceedings, and I beg the attention of hon. Members to the importance of the dates. On the 3rd of June the arguments ended, and the Attorney General for Ireland asserts, that upon that occasion the Master of the Rolls disregarded his duty as Judge. [Mr. J. D. FITZGERALD: No, no!] I beg your pardon, I heard the charge made, and I have a distinct recollection of the words. I heard it made, and I also heard the words cheered by the right hon. Baronet the Home Secretary. The charge was that, before being prepared to give judgment, the Master of the Rolls prematurely broke out in accusations against the Government—that if the offender had escaped, his escape was attributable to this precipitate expression of opinion—and that that eminent Judge had also violated his duty as a Privy Councillor in not communicating the criminatory facts and documents which came before him to the Lord Lieutenant, who would have handed over the facts and the materials to the Attorney General for Ireland, to enable him to prosecute. On the 3rd of June, the Master of the Rolls, after alluding to the enormous frauds that had been committed, and intimating that from the very great importance of the case, his Honour would defer his judgment to a future day, said—

“That the Irish Government appeared to have taken no notice of the case, and he must say that, if the Government remained quiescent, they would be guilty of the greatest dereliction of their duty to the public, and could not complain if the public should say that they had connived at the matter; and that there might be no mistake about it he would read what the law was from the judgment of Lord Campbell in the case of *Burnes v. Pennell* (2d House of Lords' Cases, p. 524). His Honour then read from the judgment the quotation about the fictitious dividend of £15 per cent., and that directors giving such were guilty of a conspiracy, and were liable to be prosecuted and punished, the same as the last quotation afterwards given in his Honour's written judgment. Mr. Fitzgibbon then read from the Banker's Act, that such frauds were punishable by prosecution and imprisonment; and his Honour concluded by saying, ‘he would wish to know if such a system of fraud was to be carried on in a civilised country and no notice taken of it.’”

Mr. Napier

The materials for a criminal prosecution having presented themselves, the Master of the Rolls, finding that in the interval, between the 3rd of March and the 3rd of June, nothing whatever had been done to bring the delinquent to justice, declared there could be no doubt that, speaking on the authority of the opinions expressed by Lord Campbell and Lord Brougham in the House of Lords, a criminal fraud had been committed in the case which he was investigating. The real party inculpated by these observations was undoubtedly the Member for Tipperary. This occurred on the 3rd of June. In a letter addressed to me the Master of the Rolls says, that every fact and statement referred to in his judgment was supported by some one or other of the affidavits deposited in the Master's Office, or in the hands of the official manager of the bank. Thus, every source of information accessible to the Master of the Rolls was equally as accessible to the law officers of the Crown. Soon afterwards the remarkable letter from John Sadleir to his brother, directing the latter as to the mode in which the fraud should be committed, was discovered, and having been lodged with the official manager, came to the knowledge of the Attorney General for Ireland on the 14th of June. Now, Sir, I boldly avouch that the Master of the Rolls has done his duty as a Privy Councillor. What are the obligations contained in the oath taken by a Privy Councillor? In *Blackstone's Commentaries*, vol. i., page 230, it is stated—

“The duty of a Privy Councillor appears, from the oath of office, which consists of seven articles—1st. To advise the King according to the best of his cunning and discretion. 2nd. To advise for the King's honour, and the good of the public, without partiality, through affection, love, need, doubt, or dread. 3rd. To keep the King's counsel secret. 4th. To avoid corruption. 5th. To help and strengthen the execution of what shall be there resolved. 6th. To withstand all persons who would attempt the contrary. And lastly, in general, 7thly. To observe, keep, and do all that a good and true councillor ought to do to his sovereign lord.”

Therefore, in the face of this House and the public, I challenge the Attorney General for Ireland, as a man of character and honour, to point out what part of this oath has not been faithfully and scrupulously observed by a Judge as fearless as he is faithful. I call upon the right hon. and learned Gentleman to state the grounds upon which he has impeached the conduct of the Judge, who, by dint of great learn-

ing, assiduity, and zeal, has succeeded in unravelling a gigantic system of fraud, and in eliciting sufficient materials to enable the Law Officers of the Crown, by the exercise of proper diligence, to detect the criminal and bring him to condign punishment. Well might any man, under the circumstances, have been astounded and indignant at no inquiry being instituted, and no step taken in order to put the delinquent on his trial. The Master of the Rolls, as was to be expected, was surprised at this, and he made the observation imputed to him. Now, Sir, what occurred on the 3rd of June? A telegraphic message came across to know the day on which the Master of the Rolls intended to give his judgment in form—the Master of the Rolls having postponed his formal judgment that he might put it in a final shape. A more elaborate judgment I never read—it brings home to the parties, beyond a doubt, the case against them. That was on the 20th of June. Now, what was done between the 3rd of June and the 20th? After the judgment of the 20th of June, the Attorney General for Ireland, for the first time, applies to the Master of the Rolls on the subject. The Master of the Rolls sees the counsel of the Attorney General in chambers, and he gives the right hon. and learned Gentleman every information in his power, and tells him where to get the documents. After the 3rd of June the letter of Mr. John Sadleir to his brother James appeared. The Attorney General, on the 17th or 18th of June, said that the criminal had escaped; but mind, I do not want to mix up the two questions more than necessary. I came here to defend the Master of the Rolls, and to speak out my mind that he has been injured wrongfully in the face of the public; that a gross fraud having been detected, it has been imputed to him that through him the criminal has escaped justice. Now, I say that up to the time I have indicated, the Master of the Rolls applied his mind to the case, and furnished the means by which the criminal could be secured. It is painful to have to defend a man who has discharged his judicial duties so ably, from the observations of the right hon. and learned Gentleman, who has held him up to the world as not having discharged his duty as a Judge, and as violating his oath as a Privy Councillor. I have for many years had the satisfaction of labouring with the talented, indefatigable, and honest Master of the Rolls; the friendship

and regard which I contracted for him have never since its commencement for a moment diminished, and I trust it never will; and of this I am certain, that a more able and more painstaking, a more impartial Judge, and one more devoted in his duty to his Sovereign, never sat on the bench. I feel it to be most painful to have to defend such a Judge from being held up in this House as having violated his duty as a Judge and a Privy Councillor. I should be sorry if the Attorney General for Ireland were denied the amplest opportunity for offering explanations. This case must be thoroughly sifted, because the honour of this House is involved in it. A Member of this Assembly stands charged with having been concerned in a gigantic fraud, by which many innocent persons in this country would have been victimised but for the intervention of the Master of the Rolls—he has escaped from justice, and it is essential that we should inquire by whose default his escape has arisen. For myself, I can only say that in any such investigation I shall be glad to render my best assistance, with a sincere desire that every man impugned should have a fair opportunity of defending himself. I hope, therefore, that the Government will afford the earliest opportunity for an inquiry to take place. The public demands one, and it must be conceded. But the point which I wish to put to the Attorney General for Ireland is this—he may have unadvisedly and in a moment of inadvertence made this charge against the Master of the Rolls. If so, I call on him unequivocally to retract it, and frankly to acknowledge that it cannot be sustained, and then, for myself, I shall be content that this painful controversy should at once terminate. But, on the other hand, if these unfounded aspersions are not unambiguously and explicitly withdrawn—if the slightest stain is still attempted to be cast upon the spotless honour of this upright and learned Judge, I have no alternative but to pursue this inquiry to the uttermost, until we have a full investigation into all the circumstances.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD): Sir, the House will doubtless recollect the challenge thrown down by the right hon. and learned Gentleman the Member for the University of Dublin, and I can assure it that I am not one who will allow him to recede from the position that he has taken up. The right hon. and learned Gentleman,

when he was about to impeach the character of a Member of this House, should, I think, have acted with more delicacy—more generosity—to have yielded to the suggestion of postponement, being informed that within the last hour a telegraphic message had been received, announcing that a Court of Justice has this day been desecrated, and a scene enacted in it of such a character as I confess I am unwilling to credit. Until that intelligence has been confirmed it will not do to assume that it is unquestionably authentic, and therefore I think that this question ought not to be taken piecemeal, but should be brought on when an opportunity shall have been afforded for those full and clear explanations to be given, in which I hope to be able satisfactorily to defend my own character from the attack which has been made upon it; and also to vindicate the Government, of which I am a member. If the learned Judge who has been referred to has been guilty of misconduct—and from the information I have obtained I should think there has been gross misconduct—the matter is one which demands the fullest explanation. The right hon. and learned Gentleman, however, who exhibits a plausible generosity in dealing with his political adversaries, declines to postpone his question for a single day, and calls upon me for an explanation, when he knows that I cannot have in my hands at this moment the requisite information or the full particulars of the charge. The right hon. and learned Gentleman commenced his observations by referring to the proceedings which took place on the 3rd of March, at least six weeks before I held the office of Attorney General. I was not sworn in as Attorney General for Ireland until the 14th of April. I vacated my seat in this House upon accepting office. I was subsequently charged with the performance of an important public duty—that of conducting the prosecution at Cavan against the murderers of Miss Hinds; and it was not until the 14th of April that I actually filled the office of Attorney General for Ireland, yet I am called upon by the right hon. and learned Gentleman to answer for proceedings which took place on the 3rd of March. The right hon. and learned Gentleman says—and he says he heard it—that in this House I accused the Master of the Rolls of disregarding his oath as a Privy Councillor, and of dereliction of his judicial duties. Now, I did neither the one nor the other. I ask the attention of the

The Attorney General for Ireland

House to what did take place on this occasion, and to put a fair construction upon the language used. I have not been in communication with any parties upon this subject, but I have derived my information solely from the public newspapers. I shall first, with the permission of the House, read an extract from a newspaper, the authority of which I think the right hon. and learned Gentleman will not be disposed to impugn. Nay, I am prepared to tell the right hon. and learned Gentleman that my information leads me to believe, that the statement in the *Dublin Evening Mail* is taken from a manuscript judgment of the Master of the Rolls, delivered on the 3rd of June last. I wish to call attention to the statements contained in that judgment, which led me to address some observations to this House on a subsequent occasion. The case was argued before the Master of the Rolls; and the hon. and learned Member for Cork (Mr. Deasy), one of the counsel in the case, who appeared for the official manager of the Tipperary Bank, having referred to some observations on the part of the English shareholders that there was fraud in the case in respect of which they ought to be discharged, proceeded to say:—

“That the evidence offered on this appeal had gone beyond the case made in the Master’s office, and therefore that much of it was not admissible. The appellant had made his case without charging Mr. James Sadleir with fraud. He had never applied to amend his affidavits or alter his case. He called upon his Lordship to confine the evidence to the facts pleaded; and as there was no case of fraud by Mr. James Sadleir made on the appellant’s affidavits in the Master’s office, he submitted his Honour ought not to permit it to be now made.”

Now, I must inform the House that, from the 4th of March, this case had been under investigation in the office of Master Murphy, that James Sadleir had been examined as a witness, that he had made affidavits in the case, and that five days previously Master Murphy pronounced his judgment, in which he acquitted the parties before him, including James Sadleir, of the charge of fraud. [Mr. NAPIER: The letter of John Sadleir.] That interruption on the part of the right hon. and learned Gentleman is unnecessary. The letter to which the right hon. and learned Gentleman refers was not discovered until the 13th of June, ten days after the Master of the Rolls made the observations I am about to read. The right hon. and learned Gentleman is quite right in

calling attention to that important letter, because I am prepared to state, that if there is a sustainable charge against James Sadleir it is based upon that remarkable letter, which did not see the public light until the 13th of June. Master Murphy, who is known to many Members of this House as a lawyer of great experience and a most industrious Judge, and of whom I may say, without meaning to disparage the Master of the Rolls, that his character stands as high as the character of that learned individual—Master Murphy, having delivered a written judgment, acquitting all parties before him of fraud, the case came on appeal five days afterwards before the Master of the Rolls, who, in the course of his observations, said:—

“Although, as I have stated, I intend to consider this matter attentively before giving my judgment, still there is one question which I consider it to be a duty due by me to the public to pass my opinion on at present. I wish to express my unbounded astonishment that the Irish Government have not thought fit to take any notice of this case. It is of the last importance to the interests of both parties that they should do so; and, if they choose to remain quiescent, and shrink from the duty that devolves upon them of placing this case before the prosecutors for the Crown, I think that they will be guilty of a gross dereliction of duty.

“When giving judgment I purpose to enter into the facts at considerable length, and I undertake to prove that, if Government determine upon continuing to be quiescent, they can have no right to complain if the public charge them with connivance at conspiracy. I repeat that the Government must interfere. They may, perhaps, pretend ignorance of the law that is applicable to this case, but I will now lay it down for them distinctly.”

At a subsequent stage of the proceedings the Master of the Rolls said:—

“It was objected that no case of fraud on the part of James Sadleir had been made before the Master. If the appellants believed that there had been combination and conspiracy between the two brothers, and if, to avoid any question on the point raised, they desired to hand in affidavits of these matters, he would permit them to be received—the official manager to be at liberty to answer them if any new question of fact were raised by them.”

No one, Sir, can read that statement of the Master of the Rolls without regarding it as a distinct charge made by him from the seat of justice against the Irish Executive of dereliction of duty and connivance at crime. When I speak of the Irish Executive I speak of myself, for if there has been dereliction of duty on the part of the Irish Government it is upon me that the responsibility rests, and I am the last man

to attempt to shrink from that responsibility. I saw the statements I have read accidentally on the 6th of June. It happened that a copy of the *Freeman's Journal*, which contained a petition agreed to by the corporation of Dublin against a Bill before the House, was sent to me, and the judgment of the Master of the Rolls being in the same paper I thus became accidentally aware of the observations he had made. Shortly afterwards a question was put to me on the subject by the hon. and learned Member for Dunkeld (Mr. Bowyer), which I immediately answered. Subsequently I was interrogated by the hon. and learned Member for Enniskillen (Mr. Whiteside), and finally a question was put to me by the hon. Member for Mayo (Mr. G. H. Moore), which led to the observations that are now the subject of controversy. The hon. Member for Mayo did not affect to disguise, what was apparent from the terms of his question, that its object was to impute to the Government connivance in the transactions which were the subject of judicial investigation. [Mr. G. H. Moore: Hear!]
—In answer to that question, observations fell from me in which the right hon. and learned Gentleman opposite (Mr. Napier) asserts that I impeached the character of the Master of the Rolls, either judicially or in his capacity of a Privy Councillor. Sir, I wish most distinctly to deny both those assertions. I answered as fully as I could the question of the hon. Member for Mayo. I explained in detail what had taken place, and the hon. Gentleman having asked whether Mr. James Sadleir had escaped from this country, and if so, whether I could account for his escape, I replied that, from the moment the attention of the Irish Government had been called to the subject there had been no want of vigilance or activity in setting the law in force, and in rendering any persons who had been guilty of crime amenable to justice. I further stated, that if James Sadleir had left the country—a fact of which I was not aware—he had done so in consequence of the alarm created by the observations of the learned Master of the Rolls. I also said, what I state again, that I considered those observations irregular—“irregular” being the strongest observation I used. I will read from *The Times* the exact language that I used:—

“The proper course for him to pursue would have been to make an order that the evidence should be laid before the Irish law officers; or, in

his capacity of a Privy Councillor, to inform the Lord Lieutenant that a crime had been committed, and point out the necessity for investigation."

I do not profess to quote from memory—I quote from the columns of *The Times*, whose reports I find to be generally accurate, and according to my recollection they are the very words I used upon the occasion. I did not say that the Master of the Rolls had violated his oath as a Privy Councillor, but I called the attention of the House to this—that if it had come before him judicially that a crime had been committed calling for the intervention of the public prosecutor there were two courses open to him. I was in this country, but my colleague the Solicitor General was in Dublin, and no one would for a moment impute to him the slightest intention in any case to connive at the commission of crime. He could have made application to my colleague or, as a Privy Councillor, he might have exercised his privilege of addressing the Lord Lieutenant, and saying to him, "A crime has been committed, something has occurred which I consider to be matter for investigation, and I give you information in order that the law may be put in motion." But, instead of doing this, the learned Judge thinks fit, from the bench of justice, to make observations so much tinged with matter of a political character as to attract the attention not only of the individual most concerned, but of the public at large; and I will say, that if James Sadleir had not left the country before that, no means more successful could be devised for driving him out of it. The right hon. and learned Gentleman (Mr. Napier) says this is a matter that ought to be investigated, and that he will be prepared, on some future occasion, to bring it forward. Now, Sir, permit me to say that, when I spoke before on this subject, I had only a vague suspicion that what fell from the Master of the Rolls had had the effect of driving James Sadleir from the country. I have now, however, to state, from private information, received only two hours since, that without doubt it was a short time after this remarkable language on the part of the Master of the Rolls that James Sadleir did leave the country, and that he has not since returned to it. Therefore, the statement which I made on inferences drawn from the facts turns out to be true. Let the right hon. and learned Gentleman, then, bring

The Attorney General for Ireland

forward his charge in a tangible shape—let him frame a Resolution on the subject and bring it before the House, and I will be prepared to meet it. The hon. Gentleman the Member for Roscommon (Colonel French) complained the other night of my observations with regard to the Master of the Rolls, and paid a high compliment to the character, and honour, and legal attainments of the learned Judge. I thought it right to state that I concurred in those observations as to the high and honourable character and legal attainments of the Master of the Rolls, but I added that I thought the observations made by him on the bench, on this subject, were irregular. Now, Sir, what has taken place since? I find that the Master of the Rolls has, in his place on the bench, made the following observations from a written paper—

"He had observed from the public journals that the Attorney General for Ireland had thought fit to renew the attacks which he had previously made upon him. That the Attorney General was much mistaken if he supposed that he (the Master of the Rolls) was about to rest quietly under such imputations. He would not do any such thing; but, on the contrary, would send forward by this night's post documents which would tend to impeach the course that had been adopted by the Attorney General in this case."

I presume the documents here referred to were sent to the right hon. and learned Gentleman (Mr. Napier) on Thursday. The Master of the Rolls then goes on to say—

"He would also be prepared on Friday to bring forward a charge against that officer which was of a most serious nature, and strongly calculated to affect his character and his office as Attorney General—a charge which he (the Master of the Rolls) was prepared to substantiate before a Committee of the House of Commons, or any other tribunal—a charge the effects of which neither the sophistry nor mystification of the Attorney General would avail him in escaping from."

I did venture to say in this House that the observations of the Master of the Rolls on the occasion referred to were irregular, but beyond that I made no charge against the learned Judge. But the result of the irregular observations is that a criminal—if James Sadleir is a criminal—has left the country. I have now, Sir, called the attention of the House to the statements made on Wednesday last, and I ask the right hon. and learned Gentleman whether he can now say that the Master of the Rolls has not turned his Court into a political arena? But the proof does not rest here. A telegraphic message has been brought to me within the last hour,

and if the statements contained in that message are well founded as to what occurred this morning in the Rolls' Court, at Dublin, a grosser outrage in a Court of Justice has seldom been perpetrated, while, according to the message, the political observations made by the Master of the Rolls were responded to by loud cheers in a crowded Court. The House knows well that statements communicated by the electric telegraph are not always to be depended upon for accuracy, and therefore it would be unjustifiable in me to read the message I have received to the House; but it was in consequence of the statement I had received that I communicated with my right hon. Friend the Home Secretary, and that he, with my entire concurrence, and with the view of avoiding a premature discussion of the case, appealed to the right hon. and learned Gentleman whether it would not be better to have the question brought forward in such a shape that, instead of a partial, we might have a full discussion on it. I think this would have been a proper course. I may be considered a political rival of the right hon. and learned Gentleman. I hold the office which the right hon. and learned Gentleman himself once held. He knows the difficulties that attach to the duties of that office, and how much firmness and fearlessness it requires, and I think, acting on high and honourable feeling he ought not to have brought forward this case till there would be an opportunity of discussing it in a regular form, and when the House could come to a decision regarding it. The right hon. and learned Gentleman has not ventured to state that there has been on my part, or on the part of the Government, any dereliction of duty. When he chooses to bring the case forward in a formal and regular shape, I shall be prepared to meet any charge he may please to prefer against me. If the Master of the Rolls has sent to him a statement in writing of what I understand he read this morning in the Rolls' Court, Dublin, I ask him—and I wish to call the attention of the House to this point—whether there are not in that paper personal charges against myself? I do not mean charges involving my personal character, for I have no fear on that point, but charges against me as a public officer, of gross dereliction of duty, of connivance at the escape of a criminal, and with the

knowledge that he was about to escape. If that paper is a transcript of such statements as those made by the Master of the Rolls this morning, then I say let the right hon. and learned Gentleman bring forward those charges in such a shape that this House can form and give a judgment regarding them. Let him do so at this moment, or on Monday, and I shall be prepared to meet them. The right hon. and learned Gentleman says he will never let this matter drop, if there is a charge brought against the Master of the Rolls. I tell him there is a charge against him, if the statement I have received of what he said this morning be true, and it was to see whether or not it was true that I wished this discussion not to take place to-night. If that statement is true, the Master of the Rolls has been guilty of the great offence of turning a court of justice into a political arena, and employing gross and unmeasured language, not only against me, but against the Government to which I have the honour to belong. It would not be fair, either to the Master of the Rolls or to myself, to go into this question now, as the House can form no judgment upon it; but when the right hon. and learned Gentleman brings forward his charge against me of having employed language towards the Master of the Rolls, which I certainly never intended to use, and which I believe I did not use, I shall, as I have already said, be prepared to meet it. At present the House could give no decision upon the question, and it could only lead to empty discussion. I challenge investigation. I tell him that if he shrinks from that investigation—if he fails to bring it forward—he will be pursuing a course that is not worthy of him. If the right hon. and learned Gentleman shrinks from a duty which he owes to himself, to this House, and the public; if, after the statement he has made, he fails to bring forward in a tangible shape the imputations he has ventured to make, I have to tell him that I will not let the matter rest. I shall advert now to only one other statement of the right hon. and learned Gentleman. He said, that all the evidence before the Master of the Rolls was available for my purposes. That evidence consisted of a great number, I believe, no less than 150 affidavits, which were the documents in possession of the Master of the Rolls till the 20th of June, when he delivered the

judgment adverted to. I am sure the House will excuse me for having trespassed so long on its attention. I have confined myself exclusively to the personal charges, but let me tell the right hon. and learned Gentleman that it is the greatest mistake, with reference to this particular case of fraud on the part of James Sadleir, to suppose that he could be subjected to prosecution for the fraud only. The director of a public company may publish false accounts, may misrepresent its balances, and there is no law, unfortunately, to make him amenable. The charge against James Sadleir is, not that he defrauded the public, but that he and his deceased brother had conspired to cheat the public by certain frauds. It is the conspiracy that forms the charge against him, and the latter discovered, for the first time, on the 13th of June, would be the real foundation of the prosecution. With these observations I leave the matter in the hands of the House, perfectly prepared, either now or at any other time, to meet any charge the right hon. and learned Gentleman may put forward.

MR. CARDWELL: Sir, it has been my privilege, ever since the distinguished Judge, who has been referred to in this discussion, has been on the bench, to live on terms of intimacy with him, and I feel it impossible to remain silent when his conduct is called in question before the House. To that point exclusively I shall confine the observations I now desire to make. With respect to any charge, if there be any, against the right hon. and learned Gentleman the Attorney General for Ireland, I shall say no more about it than this—that he is most perfectly entitled to expect that the Master of the Rolls in Ireland will not shrink from anything he has said, but will be prepared to stand by it and substantiate it. It is the undoubted right of the Attorney General for Ireland to expect that. I will now pass entirely away from that portion of the subject. I am extremely happy to learn from the observations of the Attorney General for Ireland, that no imputation was intended to be cast by him upon the Master of the Rolls with respect to the solemn oath which, as Privy Councillor, he had taken. I understand the right hon. and learned Gentleman distinctly to disclaim having made any such charge, and the disclaimer so made must of course be unreservedly accepted. The Attorney General for Ireland

The Attorney General for Ireland

says that he has confined his observations to a personal charge against himself. With great respect, however, I must say, I do not think so. I noted down, while the Attorney General for Ireland was speaking, some charges which he has brought against the Master of the Rolls. Some of these charges are absolute, turning on information which is undoubtedly in his possession, and others are contingent on the accuracy of the telegraphic despatch received by him this morning from Dublin. Thus, speaking partly on certain information, and partly on contingent information, the right hon. and learned Gentleman has tonight in his place, and in presence of this House, charged the Master of the Rolls in Ireland with degrading a Court of Justice, with being guilty of gross default, with making irregular observations, with tinging with a political colour his judicial proceedings, and with being the cause of the failure of justice by occasioning the escape of James Sadleir. The right hon. and learned Gentleman further said that the Master of the Rolls had been guilty of the great offence of converting a Court of Justice into a political arena; that he had been guilty, also, of a gross outrage on justice in making use of his position on the bench to accuse the Attorney General for Ireland in the manner which the right hon. and learned Gentleman proceeded to describe. [Mr. J. D. FITZGERALD: Hear, hear!] I observe from the cheer of the Attorney General for Ireland that I have correctly represented his statement. Then we have issue joined in the presence of the House of Commons. The Attorney General for Ireland very naturally says that, if any charge of a failure of his public duty has been brought against him by the right hon. and learned Gentleman opposite (Mr. Napier) he should have indignantly demanded immediate, public, and full inquiry. Well, by the Attorney General for Ireland there have been made, against one of the most distinguished Judges of these kingdoms, grave charges of breach of public duty. The Attorney General for Ireland has truly said, that it is not for us to enter into a detailed discussion of this subject now, because, whatever particular Members may know, the House is really in possession of no information, or only of imperfect information. I am one of those who possess only imperfect information, and therefore I shall observe the caution given by the Attorney

General for Ireland with respect to making observations in this stage of the proceeding; but I rise, under the obligations of intimate friendship to the Master of the Rolls in Ireland, to say that this case cannot rest here. In my opinion it is the bounden duty of the Government to take every means to bring this case, thus stated, to an immediate, full, and searching investigation; and, as an intimate friend of the distinguished Judge in question, I tender my entreaty to the Attorney General for Ireland to take some means of bringing the charges he has made under the consideration of the House. I do not know whether the right hon. and learned Gentleman the Member for the University of Dublin means to make a Motion or not. If he does, it is, undoubtedly, the duty of the Government to afford him facilities for making it as early as possible; but if I were in the position of the Attorney General for Ireland, having made these serious and grave charges against a distinguished Judge, I would, whether the right hon. and learned Gentleman opposite made a Motion on the subject or not, myself take an opportunity of bringing these charges to an immediate and searching investigation.

MR. G. H. MOORE: I understand, Sir, from the tone of the right hon. and learned Member for the University of Dublin (Mr. Napier), that something like a compromise has been offered between the two parties, but this is a matter in which the public can allow of no compromise whatever. It involves something larger and wider than even the characters of the two Gentlemen concerned, because either the Master of the Rolls in Ireland has been guilty of a gross calumny on the Irish Government, or the Irish Executive, including, I presume, the Attorney General for Ireland, have been guilty of the grossest dereliction of duty which ever a Government were guilty of. The right hon. and learned Attorney General for Ireland said, on a late occasion, that, from his experience of me, he had learned to believe that by my observations I meant to imply that the Irish Executive had connived at the escape of James Sadleir; and certainly from his experience of me he is likely to know that what I think and believe I would state frankly. Sir, I did mean just that. The Attorney General for Ireland must know, too, from his present experience, at least, that the Master of the Rolls has since stated what I said or meant to say at the

time referred to. The Master of the Rolls said on a late occasion, to which the Attorney General for Ireland has alluded, that he did not obtrude, advise, or give information privately, because it was no part of his duty to do so, and because he believed then, as now, that it would have received no attention from the Government, for reasons publicly well known. There is no mistake whatever as to what that means. It means that the Irish Executive did not interfere to prevent the escape of James Sadleir, because they did not and could not dare to meet the issue which would necessarily have been raised by the disclosures if that individual had been put on his trial. That is what the public believe in Ireland, and that is what I believe the Master of the Rolls adverted to on the occasion in question. Now, Sir, what is the defence of the right hon. and learned Gentleman the Attorney General for Ireland? He says that the Master of the Rolls, by his first charge, gave James Sadleir warning to escape, and that that charge was calculated to induce him to escape; and yet the right hon. and learned Gentleman, believing this, made no sign and took no step to prevent the escape of James Sadleir for a fortnight afterwards. The right hon. and learned Gentleman told me that he had ascertained that, if James Sadleir escaped, it was before he issued the information. But what was the converse of that? That the Government took care not to issue the information until they knew that James Sadleir had escaped. Which of these propositions would turn out true it is not for me to say, for that must depend on the investigation which must take place, and after which the statement of the Master of the Rolls and the conduct of the Attorney General for Ireland would be finally judged by the House and the country.

MR. WHITESIDE: I am afraid, Sir, that I misunderstood, in some points, the reply of the Attorney General for Ireland to a question put to him a few evenings ago. I was under the distinct impression that, in answer to that question, the right hon. and learned Gentleman made three statements. First, I understood him to charge the Master of the Rolls, in his judicial capacity, that he was the cause of the escape of Mr. Sadleir; secondly, that he had been guilty of misconduct as a Judge; and, thirdly, the right hon. and learned Gentleman made what I thought to be an unwise and unnecessary allusion to the

duty of the Master of the Rolls, and his oath as a Privy Councillor. Now, Sir, I should like to know what business the right hon. Gentleman had to allude to the duty and the obligation of the learned Judge as a Privy Councillor? However, I distinctly understood him to make that allusion; every Gentleman who sits on these benches, I believe, understood him in the same sense, and I almost felt it to be my duty at the time to remonstrate with him on, what I considered, an unwise and intemperate speech, but it was deemed better to address the Master of the Rolls on the subject, and endeavour to get a statement of what were the facts of this unpleasant matter. Well, Sir, what are the facts? A case of gross, of scandalous fraud came before the Master of the Rolls. He spoke plainly and distinctly; he had a right to do so, and the Attorney General for Ireland had no right to criticise him on that account. In declaring that gross fraud had been committed the Master of the Rolls only discharged his duty; in declaring that it ought to be followed up and punished by the law officers of the Crown he said what every Judge ought to say in such a case. Well, then, he declared that a gross fraud had been committed, and in my opinion—I say it with sorrow, but I believe the public opinion of Ireland will support me—not only has fraud been committed, but there has not been displayed that zeal, that activity in bringing the offenders to justice that would have been exhibited if those persons had not possessed a certain political influence. I quite agree that the right hon. and learned Gentleman the Attorney General for Ireland has a right to say that there is no case whatever against him; I think he has, and I say so advisedly; but I beg right hon. Gentlemen opposite not to suppose that they are not responsible like other men. [Mr. HORSMAN: Hear, hear!] The right hon. Gentleman the Chief Secretary for Ireland must not think to stop our mouths on a question of this kind. I say it is true that Mr. Sadleir, on the 3rd of June, walked about the hall to the surprise of everybody; that he was privately examined by Master Murphy; that there came to light a letter, the most infamous piece of evidence as proof of conspiracy that ever existed in any case of the kind. I do not know that the Attorney General for Ireland knew of it. But how was Sir John Dean Paul dealt with in this country? He was rigorously punished, though

Mr. Whiteside

not guilty of half such crimes, I believe, as those committed by Mr. Sadleir. I agree in thinking it will be matter for inquiry as to whether, until the 24th of June, any document was sought for or obtained on the part of the Crown; and this point shall be inquired into. But I repeat that I understood the Attorney General for Ireland to impute to the Master of the Rolls that he was guilty of a dereliction of duty in saying what he did in reference to the fraud committed in this case; that he was likewise guilty of impropriety in suffering Mr. Sadleir to escape; and that, as a Privy Councillor, it was his duty to go to the Lord Lieutenant and put him in possession of the materials which had come into his possession as Master of the Rolls. Now, it is true that the right hon. and learned Attorney General for Ireland has a high character in his profession, and I wish to say nothing to detract from that character; but I think he will make a fatal mistake if he supposes that he will raise his reputation in this House by speaking, as he has done more than once, so severely of those whom it is our duty to respect; of those who are placed on the judicial bench, and are sworn to do their duty, and conscientiously wish to do their duty, in that responsible position.

MR. HORSMAN: So far, Sir, from wishing to “stop the mouth” of the hon. and learned Gentleman who has just resumed his seat, I was only sincerely desirous that he would address himself to the one point alluded to by the right hon. Gentleman the Member for Oxford (Mr. Cardwell). I now ask the right hon. and learned Gentleman (Mr. Napier) if he intends to bring to a distinct issue the charges he has in his hand, and which he has received by post to-day from the Master of the Rolls for Ireland? The hon. Member for Mayo (Mr. G. H. Moore) said, that one of two things has been distinctly proved—either that the Master of the Rolls has been guilty of gross calumny against the Government, or that the right hon. and learned Gentleman the Attorney General for Ireland has been guilty of a culpable dereliction of duty. Sir, we accept that issue. We admit that that is the case now fairly before the House. That issue has been raised by the right hon. and learned Gentleman (Mr. Napier), though he had in his possession the statement of the Master of the Rolls, that on this day he would state in detail, from the judgment seat, the serious charges he had to bring against my

right hon. and learned Friend the Attorney General for Ireland. Instead, however, of waiting for those charges, it was more convenient for the right hon. and learned Gentleman, with the present imperfect information before the House, to raise a discussion, rousing suspicions, creating doubts, and giving rise to misrepresentations, rather than allow us to come to a distinct decision upon the points on which he knows in a few hours we should be fully informed. It has been said, that the Attorney General for Ireland is responsible for the whole of those proceedings, and that if there has been any defeat of justice, the blame rests on his shoulders. Now, the fact is that, throughout the whole of this affair, from the very first moment when the intelligence of these frauds obtained publicity, my right hon. and learned Friend has made the entire Government aware of every step he has taken. I, myself, have been made acquainted with all that has been done, and there is not one of the steps taken by my right hon. and learned Friend for which I am not as fully responsible as he is. My chief object, however, in rising, was to say that I do not think it would be worthy of the right hon. and learned Gentleman (Mr. Napier) who has in his possession what the House has not—namely, these distinct charges under the handwriting of the Master of the Rolls against the Government, and who, possessed of those charges, made the speech which he has thought it right to deliver this evening—I say I think it would not be worthy of him, and the House would not excuse him, if he does not now raise that issue by submitting a distinct Motion to the House, allowing us to know what these charges are, whether he endorses them himself, and whether he will call upon the House to endorse them also.

MR. NAPIER: Sir, the statement furnished to me I will hand to the right hon. and learned Gentleman the Attorney General for Ireland. If I had received it sooner, I should have given it to him before, but it only reached me by the late post this day. Allow me to say, that that statement merely consists of facts, and not of charges. I asked for facts and dates, and those were furnished to me, and I confined my remarks this evening simply to a defence of the Master of the Rolls. I repeat that I will hand this statement to the right hon. and learned Gentleman the Attorney General for Ireland, and if he and the Government do not afford me an oppor-

tunity of going fully into this matter, I answer the challenge of the right hon. Gentleman opposite (Mr. Horsman) by saying, that I do undertake to see it inquired into.

Subject dropped.

THE NAWAB OF SURAT—QUESTION.

SIR FITZROY KELLY said, he wished to ask the First Lord of the Treasury, whether it was the intention of Her Majesty's Government to take the opinion of the law officers of the Crown (including the Queen's Advocate, whose especial duty it was, when called upon to advise the Crown upon the construction of treaties), as to the true meaning and effect of the treaty of 1800 between the hon. East India Company and the then Nawab of Surat; and, in the event of such law officers advising that, under the said treaty the East India Company were bound to pay to the heirs of the said Nawab the annuity therein mentioned, whether it was the intention of Her Majesty's Government or the Board of Control, to order or direct such payment to be made by the said hon. East India Company accordingly? It was well known that, when the territory of Surat was annexed, the East India Company agreed to pay the Nawab an annuity of £15,000. The son of the Nawab died in 1840; and his son-in-law, the husband of the late Nawab's only daughter, and the father of two infant children, his only surviving descendants, demanded the annuity; but the East India Company had refused to recognise his claim. Now, he contended that the decisions hitherto given by the Indian Board on this claim had been entirely *ex parte*, the representatives of the deceased Nawab never having been heard at all. The annuity was charged by the treaty, not upon the general revenues of India, but upon those of the state of Surat itself, of which the East India Company had possessed themselves; and so long as those revenues were able to bear the burden, so long he maintained was the Company bound to pay it. The treaty bound the East India Company to pay this annuity to the Nawab and his heirs; and the simple question was, as to the meaning of the term "heirs." Meer Jaffier Ali, who now claimed to be the heir, had come to this country, and, being a British subject, had petitioned the House of Commons in favour of his claim; and a Bill founded upon that petition had been brought in, but had been

rejected by the other House. The East India Company, wielding all the powers of the British Government, had solemnly entered into this treaty, by which a native prince was degraded to the rank of a subject; an annuity was secured to himself and his family; the payment was now disputed; and the British Government denied to those aggrieved parties the right of appealing to a Court of Law. They had been advised by the most eminent lawyers in this country that they were entitled to the annuity; but owing to the mode in which the treaty was framed, under the authority of the Crown, the claimants had no power to enforce their right in a Court of Law. It was said that Meer Jaffer Ali had done wrong in canvassing Members. Now, he would ask hon. Members what other course was open to him? He admitted that he had canvassed him (Sir F. Kelly), and no doubt many other Members. Being advised that he had a well-grounded claim, and finding that the door of every Court in the kingdom was closed against him, what could he do unless he appealed to that House? The Bill had been introduced in that House as a Private Bill, under the authority of Mr. Speaker, and had passed by an immense majority; in the other House it had been rejected because it was a Private Bill. The treaty had been submitted to a Select Committee of five learned Gentlemen who had unanimously determined that, according to its true effect and meaning, the present claimant was entitled to the annuity. It appeared that, while the treaty was in negotiation, discussion arose as to the meaning of the terms "and his heirs;" and the prince was assured by the Government of Bombay, that he might rely on the honour and good faith of the East India Company, and that those terms in the treaty would secure the annuity to his representatives and descendants for ever. It was only upon that representation that he had signed the treaty and given up possession of his dominion. The Company paid him the annuity as long as he lived, and continued it to his son after him; but when there ceased to be a direct successor to the Nawab, the East India Company refused payment to his heirs and representatives, alleging that the annuity was only payable to the Nawab for the time being, and that the Company had the power of determining that office whenever they pleased: thus constituting themselves the judges of their own case, and the interpre-

Sir Fitzroy Kelly

ters of their own treaty. When the case came before the House, the hon. Member for Honiton (Sir J. Hogg) had strenuously defended the East India Company; but the Bill was, as he had previously mentioned, carried by a large majority, thus affirming the decision of the Committee. Upon that taking place, overtures were made to the East India Company, and the Vice President of the Board agreed to them; but they were rejected by a majority of the Directors, and the claimant was obliged to proceed with his Bill in the other House, and the result was what he had stated. Either the money was due or not; if it was, could any Minister of the Crown refuse to take further steps? There was but one course open to them, and that was to take the opinion of the law officers of the Crown, and to act in accordance with it. By the Statute of 3 & 4 Will. IV., cap. 85, the Government had power to order the annuity to be paid by the East India Company, if they were of opinion that it was due. If they thought otherwise, at least let them take the opinion of the law officers of the Crown, or refer the matter to the Judicial Committee of the Privy Council. He appealed most earnestly to the Government to do this. In the course of a long experience he had never felt more strongly than on this case. It was incompatible with honour, justice, or any motive that ought to regulate men's actions, that the matter should be allowed to rest where it was.

MR. VERNON SMITH said, he must complain of the hon. and learned Gentleman bringing forward this case on the Motion for the adjournment of the House. He had heard a great many desultory debates on the question of adjournment; but he had never heard so enormous an abuse of the privilege of debate as that of the hon. and learned Gentleman on the present occasion. He had gone over the whole of a case that had been three times debated, submitted to the Legislature as a Bill, sanctioned by that House, and rejected by the other. He must protest against such a proceeding. It was likewise extremely unfair to those who were not prepared to enter into such a discussion. The question was a very simple one, namely, whether the Government would follow the course which the hon. and learned Gentleman suggested. As to the claim of the Nawab, the hon. and learned Gentleman had made many erroneous statements and many dogmatic assertions. He had evi-

dently given considerable study to the question, and there was no necessity for him to ask the opinion of any legal adviser. He had also referred to Members being canvassed in support of the Bill. He (Mr. Smith) was not aware that he ever made that charge; if he did, he certainly never alluded to the hon. and learned Gentleman. If he had been canvassed, nobody could object to that, on account of the interest which he took in the question. Canvassing, in reference to a Private Bill, meant the solicitation of Gentlemen who knew nothing about the question. The hon. and learned Gentleman had stated his own decided view on this matter; but it was clear, from his own showing, that there were doubts on the construction of the treaty. The hon. and learned Gentleman said that the authorities were all on one side on this question. Did he mean to say that Lord Ellenborough and the other Governors General of India, who had decided the question over and over again, were no authorities? With regard to the question of the hon. and learned Gentleman, his hearty hope was that the advisers of Meer Jaffier Ali would recommend him to go again to the Court of Directors and lay before them the whole of his case as he thought it should be stated. If he took that course he trusted the Executive Government of India would be prepared, setting aside all the irritation which might have arisen from the contest in that House, to come to such an agreement as would be satisfactory to all parties. If they could not come to a settlement, it would then be the duty of the Government to see that the question did not remain where it was. The hon. and learned Gentleman proposed to lay the case before the law officers of the Crown. But with all due respect to the law officers of the Crown, he did not think they were the best persons to consult on questions of Mahomedan law and the modes of descent in India. The other alternative was to refer the question to the Privy Council. He was of opinion that it would be useful to adopt that course, because the Judges of that tribunal were conversant with subjects of this kind. But the law officers of the Crown were not in favour of a reference to the Privy Council, as they doubted whether it could be done under the 4th section of the Privy Council Act. There certainly was a want of some tribunal to decide questions of this kind. The present was a question of the inter-

pretation of a treaty made by the Executive Government of India and a Foreign State, and the question was to what tribunal that interpretation was to be referred. With regard to the power of the Board of Control to order the Court of Directors to make payment from the revenues of India in cases of this kind, he was by no means clear. There was a just jealousy on the part of the Indian Government of any interference by the Board of Control with the revenues of India. The power of checking expense was absolute and clear, but not the power of expenditure. However, if he found any injustice done, he should not confine himself to the issuing of a doubtful order, but should call on Parliament for a special Act to give him the power of performing justice.

Subject dropped.

STAFF OFFICERS—QUESTION.

COLONEL LINDSAY said, he wished to call the attention of the House to the deduction of pay from officers serving on the staff when they were temporarily absent from their staff duties. In reply to a question put by him on a former occasion, the hon. Under Secretary for War stated that the general rule of the service disentitled that class of officers to receive staff pay while not actually performing staff duty. On that point he took issue with the hon. Under Secretary, and maintained that the practice had not been such as he had represented it. He conceived that the rule adopted on the subject in 1848 was intended to meet the cases of officers holding two staff appointments, or of officers upon full pay holding staff appointments, and that it was not meant that the staff pay of half-pay officers holding staff appointments should be deducted when they were temporarily absent from their duties. He wished to know whether it was the intention of the War Department to deduct the staff pay of officers who were absent for a short time on leave?

Mr. FREDERICK PEEL said, that in the case of staff officers employed abroad the staff pay was not issuable when the officers were absent from the particular sphere of their duties. But with regard to officers at home, the practice, he believed, was to allow the staff pay to those who were only away for a short period, and whose duties could be discharged in their absence without any additional expense to the public; and by that practice the authorities at the War Office proposed to abide.

MILITIA ALLOWANCES—QUESTION.

MR. NEWDEGATE said, he wished to inquire of the hon. Under Secretary for War whether he would lay upon the table of the House the Report and names of the Medical Board who last examined into the state of the health and the fitness for duty of Captain Cassan, the adjutant of the 1st Regiment of Warwickshire Militia, who had applied for permission to retire upon the allowance provided for adjutants of militia, under the Act 9 & 10 Vict. c. 55; also the Report and names of the Medical Board who had previously examined and reported upon the state of health and fitness for duty of the same officer? He had reason to believe that Captain Cassan was at present in a state of health which totally unfitted him for the discharge of the duties of a militia adjutant, and that, he believed, had been the effect of the Report of a Medical Board which had inquired into his case. But another Board had, it would appear, instituted a second inquiry, and in consequence of their Report the authorities at the War Office had refused to Captain Cassan permission to retire upon the allowance provided for adjutants in the militia.

MR. FREDERICK PEEL said, the first Medical Board before which Captain Cassan had appeared had reported that he was unfit for service in the field. But the militia regiments were about to be disembodied, and a second Medical Board had given it as their opinion that Captain Cassan was not disqualified by infirmity of health from performing the comparatively light duties which would devolve upon an adjutant under that change of circumstances. The authorities at the War Office felt that they could not, after that second Report, allow the officer in question to retire upon the allowance provided for adjutants of militia. He had further to state that he did not think it would be right to produce the Report of the Board, which might be fairly regarded as a confidential document.

THE ECCLESIASTICAL COURTS—QUESTION.

MR. HADFIELD said, he would beg to ask the First Lord of the Treasury what course was intended to be pursued by Her Majesty's Government in the course of the present Session respecting the Wills and Administrations Bill and the Divorce and Matrimonial Causes Bill; or, in the next Session, for abolishing the Ecclesiastical

Courts, and conducting in future the business now transacted by such Courts, and especially for the purpose of making one probate or administration in England and Ireland, and one confirmation in Scotland, operative on all the property of a deceased person in the United Kingdom; and what Bills brought into the House were intended to be proceeded in or withdrawn this Session; and whether any new Bills were intended to be brought in? He did not think it right that the whole expense consequent upon any change to be made in the Courts and upon the grant of compensation to officers should be thrown on the estates of deceased persons; but he would rather submit to that burden than lose the benefits of a new measure. He believed that it had been proposed to create three or four new Courts, but as the Court of Common Pleas was not half worked he conceived that the whole of the business might easily be transacted there. He therefore called upon the Government to explain their intentions upon the subject of the Bill. [An hon. MEMBER: It is abandoned for this Session.] But he wanted to know what were the intentions of the Government as to next Session. At all events he hoped the Government would state generally their intentions as to the Bills now before the House.

MR. GLADSTONE said, he wished to call the attention of the House to one point connected with the Testamentary Bills. One of the great objections to the late Bill had been the amount of compensation. The matter had now been under discussion for twenty-five years, and notices ought to have been given to all parties entering on situations, that they took them subject to any changes Parliament might make. [An hon. MEMBER: There are two Acts of Parliament containing provisions to that effect.] He would suggest that in all future appointments notice should be given that the party would have no claim to compensation in the event of any change. As regarded the Divorce and Matrimonial Causes Bill, when the Order of the Day was read, he would call attention to the important principles it involved, and the danger of adopting it without due consideration. He hoped Her Majesty's Government would not determine on pressing the Bill at that late period of the Session.

SIR GEORGE GREY said, he believed that notice had been given to persons receiving appointments in those Courts that they would have no claim to compensation

in the event of their offices being abolished. In reply to the hon. Member for Sheffield (Mr. Hadfield), he had to state that the Wills and Administrations Bill was withdrawn last night in consequence of the impossibility of its receiving due attention during the present Session. The Divorce and Matrimonial Causes Bill had only come within a few days from the House of Lords. He willingly admitted its importance, and the Government hoped to be able to proceed with it during the present Session. He would rather not, however, give any distinct assurance to that effect or otherwise, at present, but on an early day next week he would state what course would be taken with respect to it. In regard to the third part of the question of the hon. Member for Sheffield, he could only say that due notice would be given of any measures which the Government might think it expedient to propose in the course of the next Session. He was not aware of any new Bill which it was intended to bring in during the present Session, and, with reference to the Bills now on the paper, the course which the Government proposed to take would be stated as those measures successively came before the House.

MR. J. G. PHILLIMORE said, he hoped the Government would proceed with the Divorce and Matrimonial Causes Bill, which would remove from the Statute Book a scandal that had long been a disgrace to the country.

MR. MALINS said, he would beg to remind the right hon. Gentleman (Mr. Gladstone) that the abolition of the proctors, to whom the chief compensation was proposed under the Bill of the hon. and learned Solicitor General, was not recommended by more than one Commission which had inquired into the subject, and that the Government had proposed to give some £50,000 a year as compensation to those whose existence was reported by one of these Commissions to be essential to the public safety. The evils arising out of the present system with respect to wills and administrations had been greatly exaggerated, though he would admit that there were some which could hardly be exaggerated. For example, there was the *bona notabilia* system, which rendered it necessary to prove a will in several districts; and he thought it was also highly desirable that the Ecclesiastical Courts should be turned into Queen's Courts. If the noble Lord at the head of the Government would only take the trouble during

the recess to look over the Report of the Chancery Commission of 1854—it was very short—the noble Lord might read it through in an hour and a half—he would find it founded on facts of such importance, and backed up by the authority of such eminent men, that he would hesitate long before allowing a Bill intended for the reform of the Ecclesiastical Courts to bring their business in any way under the control of the County Courts. Any Bill which contained such a proposition would meet with his (Mr. Malins's) strenuous opposition; but he would cordially support a Bill founded generally on the Report of the Commission to which he had referred.

Subject dropped.

MUTINY OF THE TIPPERARY MILITIA.

COLONEL DUNNE said, he trusted he might be allowed to say a few words on a subject which concerned the peace and good order of a large portion of the empire. The House had heard within the last few days that one regiment in Her Majesty's service had been in conflict with three others in the open field; they had seen that a town of some importance in Ireland had been in the possession of mutinous troops; they had been informed that four of those soldiers had been shot in action, while twelve or thirteen on each side were said to be wounded, yet no notice whatever had been taken of the subject in that House. An Irishman might perhaps be pardoned, then, for calling attention to so fearful a state of things. He had taken the liberty several times of calling the attention of the hon. Gentleman the Under Secretary for War—who was not now in his place, though he (Colonel Dunne) had given him notice that he should bring the question forward—to the mode of disembodied the militia. He had been in communication with the colonels of Irish militia on the subject, and they had together pressed upon the Minister for War the hardship suffered by men who were discharged from their regiments without money and with no clothes, except a light undress uniform. The noble Lord at the head of the Government, than whom no man in the country better understood military details, took the subject into consideration, and stated in that House that the men should have a gratuity of 14s. on being disbanded. That was a most satisfactory answer. All those who had made representations on the subject were averse from granting the men, on leaving

their regiments, more money than was absolutely necessary, so that they might not be led into dissipation; but they also know very well that they had recruited from a class of men whose ordinary clothes were destroyed, and who would go from their regiments without a halfpenny in their pockets. That had actually been the result. In England there had been a great deal of bungling about the militia regiments, and almost all the colonels of those regiments had received different orders on the subject of the gratuities. Instead of giving the men the promised 14s., orders were sent round to give them a portion of the bounty, which was issued at the rate of 5s. a quarter, and in some regiments the men got 4s., with a part of the bounty. Now, the payment of the bounty was spread over that period, in order, no doubt, to induce the men to return to their standards, while the gratuity was to be given, because without it the men would have starved. That, as he had stated, was the course pursued in England, and he knew that in many instances the colonels of militia had given the men money out of their own pockets to carry them home and support them. Orders were sent to disembody the Irish militia, and he would beg to read an extract from a letter he had received from the officer left in command of his own regiment, which would show how the men were treated:—

“We are only authorised to give the men the proportion of bounty up to the day they leave, which is very hard, as many of them have left with only a few pence in their pockets, and unless they get immediate employment they must go without food.”

The Tipperary Militia were treated in the same way; they were ordered to give in their clothing, and, though he knew too well what military discipline required to defend such a breach of it as had been committed in this instance, he thought it was very natural on the part of men, who had very little other clothing, to object to such an order. The regiment then became so mutinous that General Chatterton, an experienced and humane officer, had to bring up other regiments against it, and the House knew what had followed. Now he looked upon the War Department as responsible for all that had taken place. Had they sent over the proper order that the men should purchase clothes, and should be fed until they got into work, or if the declaration of the noble Lord

Colonel Dunne

(Viscount Palmerston) had been carried out, this lamentable affair would not have occurred. There were many other regiments to be disbanded, and the peace of the country would be disturbed in many other parts of Ireland if the Government did not do justice to the soldiers. He admitted that in this case severe punishment must be inflicted on the offenders, but would it not be much better to exercise a little more common sense and humanity before such scenes were allowed to take place?

COLONEL FRENCH said, there was a general feeling in Ireland that the men had not been fairly treated. They had been given to understand at the outset that the £6 bounty would be paid at once, instead of which it had only been paid by instalments of £1 a year or 5s. a quarter, and then the payment of the miserable instalment of the bounty was substituted for the promised gratuity. There was a rumour that the War Minister intended altogether to override the assurance given by the noble Lord at the head of the Government; but he hoped that the noble Lord would not allow it, for the conduct of the men had been most admirable.

Motion agreed to.

House at its rising to adjourn till *Monday*.

COUNTY COURTS ACTS AMENDMENT BILL.

Order for Committee read.

Motion made and Question proposed, “That Mr. Speaker do now leave the Chair.”

MR. GLADSTONE said, it was his intention to move a resolution condemnatory of the principle of throwing a largely increased charge on the Consolidated Fund on account of the County Courts. He apprehended that its adoption by the House would not interfere with the progress of the present Bill, but would simply delay the carrying out of the proposed alterations in reference to the fees until another Session. It would be perfectly competent to the House, after adopting the Resolution of which he had given notice, to resolve themselves into a Committee on the Bill. He might as well, however, state to the House the reasons which had induced him to adopt this form of Resolution. The financial changes contemplated by the Bill were dispersed through its various clauses, and as it would have been impossible, by any question to be raised in Committee, to

submit the subject fairly to the House, he had endeavoured to gather together the various results of the proposed changes into one general Motion. The additional charge intended to be thrown on the Consolidated Fund by this Bill was £170,000 a year. At present the fees paid by the suitors discharged the entire expenses of those Courts with the exception of £25,000 and a further sum of about £13,000, which by Act of Parliament was charged on the Consolidated Fund. Besides the additional charge of £170,000 contemplated by the Bill as it now stood, there were further additions contemplated by various Amendments, of which notice had been placed on the papers, giving salaries to Judges and their clerks amounting to somewhere about £45,000, which must be taken into account. If these were not adopted the whole charge of the County Courts when the Bill was passed would amount to £208,000, of which £170,000 would be imposed by the Bill, and if these were adopted the total charge would be about £253,000. Now that, it must be borne in mind, would not be merely a permanent charge, but, in all probability, would be a growing one. An annual charge of £170,000 was equivalent to voting away £5,000,000 of the public money; an annual charge of £208,000 was equal to £6,500,000, and an annual charge of £253,000 to about £8,000,000, so that in a financial point of view it was no light question which the House was called upon to decide. It was no excuse for passing over the financial considerations, to plead that this was a measure of law reform. So far the financial part of the question had not been adequately considered. The measure had been sent down from the other House, framed by certain eminent Peers connected with the legal profession, whose susceptibilities with regard to the liability of the Consolidated Fund were of course not so great as those of the House of Commons ought to be. The financial changes contemplated by the Bill had been treated quite as a secondary matter, but they ought not so to be viewed in that House. As yet there had been no distinct understanding arrived at as to the mode in which they were to proceed in dividing the charges of litigation between the public and the suitors. He was not prepared to deny that there was much to be said in favour of a revision of the present arrangement, but it ought to be done deliberately, and it should be after a care-

ful review of the relations between this subject and other subjects connected with our judicial system. All he asked of the House was the right of reconsidering the subject. There was a doctrine which was greatly in fashion with some classes of the community, to the effect that inasmuch as litigation was a misfortune, its evils and annoyances ought to be borne, as far as possible, by the public. To that doctrine he most distinctly demurred. It was one which would greatly tend to foster litigation. Although some persons were involved in litigation perfectly reasonably and for the defence of their right, in many suits both parties were, and in most one was, unreasonable. Even if it were not so, why were the costs of misfortune to be borne by the community? why should not the evils and anxieties of life appertain to those upon whom they fell? By placing them upon the public you removed the stimulus to the exercise of individual prudence, and discouraged the self-command and self-denial which led men to take calm and dispassionate views of their own position and interests. With regard to the particular case of County Courts there were many circumstances which might be urged in support of the argument that the present state of things called for some modification of their arrangement. It was said that the State paid the salaries of the fifteen Judges who sat in the Superior Courts in Westminster Hall. That was true, but it was also true that suitors were made to contribute largely towards the expenses of those Courts. Besides, those Judges did not stand in a position with respect to the public similar to that of County Court Judges. Their services were required for carrying on the whole of the superior criminal jurisdiction of the country; and they had also to discharge the constitutional duty of rendering advice and assistance to the ultimate Courts of Appeal. It might also be urged as a reason why the Judges of County Courts should be paid out of the public funds that in Scotland the salaries of the sheriffs who presided in the small debts' courts of that kingdom were so paid. But it must be remembered that those sheriffs, like the fifteen Judges, were concerned in the administration of criminal justice. What he ventured to submit to the House, and at the same time to impress upon it, was, that this subject ought to be deliberately examined and considered by the House in connection with the state of the judicial

establishments in Westminster Hall, and with the manner in which the charges of those establishments were divided between the public and the persons engaged in litigation. There was at present a strong impression on the public mind that these establishments were considerably larger than was necessary. The Judges were provided with most liberal salaries, backed by most liberal pensions. That, he considered, was perfectly proper. It appertained to the independence and the dignity of the Bench, and he did not believe that there were five men in that House who would wish to alter it; but that was no reason why the dignified occupants of those offices should not be fully worked, or why there should be a greater number of such officers than the nature and extent of the public business justified. The labours of the Judges had been greatly relieved by the creation of a body of not less than sixty County Court Judges, and the tendency of legislation was further to reduce their labours; and it was therefore but just to the people of England that, before imposing upon them a charge so heavy as was contemplated by the Bill under consideration, the House should examine into the state of those establishments, and should place them on such a footing as the interests of the public required. They were there to vote the money of the people of England, which was collected from the earnings of the mechanic, the artisan, the peasant, and the factory worker, and they had no duty more sacred than that of not voting sums which were disproportioned to the purposes to which they were to be applied, and of seeing that they did not impose upon the Consolidated Fund new charges without examining whether the expenses for kindred establishments could not be reduced. The only ground upon which his Motion could be opposed was, that this was a matter of extreme urgency; but such an objection would not be well founded, because all the necessary reforms in the procedure of the County Courts and in the costs of processes might be agreed to without the decision of the question of who should be the parties to bear the charge. That question was certainly not an urgent one. The course which he would suggest for the adoption of the Government was, that they should, during the recess, consider this very important subject, especially in connection with the position of the fifteen Judges; should fix a proper scale of salaries for the Judges

Mr. Gladstone

of County Courts; should ascertain the lowest cost at which the business could be done; and should then, upon their responsibility, submit to the House a proposal as to the manner in which the charge should be shared between the public and the suitors. The Bill amounted to no such proposal.

Amendment proposed, to leave out from the word—

“That” to the end of the Question, in order to add the words “it is not expedient to impose, at the present time, upon the State a charge so heavy as one hundred and seventy thousand pounds per annum, towards the maintenance of the County Courts,” instead thereof.

SIR GEORGE GREY said, that the Bill now before the House was founded upon the Report of a Commission specially appointed to inquire as to what changes might be made in the County Courts. The Commissioners were directed to inquire whether any reduction could be made in the fees paid by suitors in those Courts, and into the general cost of the proceedings. The Commissioners stated—

“We now proceed to consider a question which is preliminary, but essential, to this branch of the inquiry—that is, whether the County Courts should be self-supporting. We are of opinion that they should not. To compel the suitors to pay fees sufficient to support the establishment appears to us unjust in principle, as that which is for the benefit of the public should be supported by the public; but we fear that at present financial reasons will render it impracticable to reduce the fees in strict conformity with the principle we have enunciated. We think, therefore, that the suitors should pay an amount of contribution sufficient to remunerate the clerks and high bailiffs of the Court, and that all other expenses of the establishment—such as Judges’ salaries, buildings, stationery, and other matters, should be borne by the public revenue.”

They then gave a scale of fees, and recommended a reduction in the sum heretofore paid by suitors of £124,000. His right hon. Friend (Mr. Gladstone) had not stated any special reasons, applicable at this particular time, why the principles laid down by the Commissioners for the County Courts, and already recognised in the Superior Courts at Westminster, should not be now acted upon, and he did not see that any reason had been shown for further inquiry into the principle whether suitors who were least able to pay the costs should pay expenses from which the richer suitors in the Superior Courts were exempt. His right hon. Friend said this was a heavy charge, but he did not see how the House would be more competent to deal with the question in a future Ses-

sion, since they had now the advantage of the assistance of the Report of the Commission. His right hon. Friend said there were special reasons why the Superior Courts of law at Westminster should be maintained at the public expense which were not applicable to the County Courts, because the Judges transacted all the criminal business of the country. But the Equity Judges received their salaries from the same source, and they transacted no criminal business. Their attention was exclusively devoted to suits in which property was concerned, and in which the suitors were persons of wealth, or, at all events, of some means. The Judges of those Courts were maintained exclusively at the public expense, and he did not see any distinction between the Equity Judges, who transacted exclusively civil business, and the Judges of the County Courts. His right hon. Friend said that there were now more Judges in Westminster Hall than were required for the business that devolved upon them. He was not aware of the grounds upon which his right hon. Friend came to the conclusion that the number of Judges could be at all diminished, nor could he conceive why, upon that account, the House should not do justice to the class of suitors interested in the County Courts. If the House were to cut off two, or three, or four of the Judges of Westminster Hall, that would not affect the business of the County Courts or the duties performed by the Judges of those Courts, nor did he see why the House should postpone an act of justice to the suitors in the County Courts until they had instituted an inquiry into a matter of a totally different nature. He conceived that the proper course was to go into Committee on the Bill. There might be reasons for making changes in the table of fees, but he hoped the House would not be induced to make those Courts self-supporting, and to throw the whole burden upon the suitors.

MR. E. BALL said, he hoped the Government would not give way upon the Bill. Of all the means to give relief to the oppressed, none was done at so little expense as by the County Courts Act. The last thing they ought to do would be to refuse a little money towards the relief of the oppressed. The business of the Courts was not only great, but increasing. Since 1851 it had increased a hundred fold. When, with the concurrence of the right hon. Gentleman the Member for the

University of Oxford the Government had voted so many millions, they surely should not refuse a sum of £100,000 for such a purpose. The right hon. Gentleman had told them to wait; he was a theologian, and therefore knew that procrastination was the root of all evil. No persons concerned with justice were so much wronged as the clerks of the County Court Judges, for they were less remunerated than any other portion of the same class. The Bill was intended for the middle classes, and he trusted that it would not be rejected.

MR. BOWYER said, that the Resolution of the right hon. Gentleman (Mr. Gladstone) was founded upon the totally mistaken principle that the Judges of those Courts ought to be paid in part by fees from the suitors. The only sound principle was, that that expenditure should be looked upon as part of the public service. Remembering the reckless manner in which money was not unfrequently voted away by that House, it was shocking that there should be so much reluctance in granting the necessary supplies for that most important of all services—the administration of justice. He would certainly vote against the Amendment.

MR. VANSITTART said, he should support the Resolution. He approved of the reasonings of the right hon. Gentleman the Member for the University of Oxford, and thought that by acting upon the Report of the Commissioners the House would place itself in a false position. It was, he believed, dangerous to make justice too cheap.

THE ATTORNEY GENERAL said, that a proposal to throw upon the suitors the entire charge of those Courts looked not unlike an attempt to make men forego their rights and submit to imposition rather than incur a serious expenditure. Such a proceeding was not to be tolerated. The doctrine, that the charge of maintaining the Courts of law should be thrown on the litigant parties was open to grave objection, for the community at large, and not merely the person who succeeded in a case, derived benefit from the administration of justice. It might be that the expenditure on account of salaries and superannuations in the Courts at Westminster Hall was excessive; and, if so, it would be well to inquire into it; but the question had no manner of connection with that now under consideration, and should not be mixed up with it. It was not to be denied that the fees at pre-

sent exacted from suitors in the County Courts were too large, and altogether out of proportion with the amounts involved in litigation. That evil the Bill would correct, so the House, in his opinion, would do well to go at once into Committee on it.

MR. BECKETT DENISON said, he fully approved of the Resolution. They were called upon to pay £170,000 a year, and if the right hon. Gentleman (Mr. Gladstone) divided the House upon the propriety of considering the County Courts without pledging themselves to pay the sum, he would go with him. After so much money had been voted, it was more than ever important to consider such a sum as £170,000. He objected to it as a guardian of the public purse.

MR. ROEBUCK said, that from the speech of the hon. Gentleman, it would be supposed that the £170,000 was to be taken from the pockets of the people. That certainly was not the proposition. The proposition was to limit the power of granting money to the County Courts to £170,000. They should consider that in those courts was transacted the greater part of the litigation of the country. The amount in each case was small, but the aggregate was enormous. The courts were courts of litigation for the poor. The Resolution made a difference between courts for the rich and courts for the poor, and gave the favour to the court for the rich. [*Cries of "No, no!"*] That, however, he repeated, was the effect of the Resolution.

SIR HENRY WILLOUGHBY said, he must deny that the Amendment was fairly susceptible of any such interpretation as that sought to be put upon it by the hon. and learned Member for Sheffield. If any distinction were made between the rich and the poor as regarded their courts, the House would desire to make it in favour of the latter. But what said the Chancellor of the Exchequer to the proposal to saddle the Consolidated Fund with this enormous charge? It was, above all things, important to know how it was regarded by the financial Minister. For his own part, he (Sir H. Willoughby) had serious misgivings that if they went on throwing such heavy burdens on that fund, it would break down and become bankrupt at last. The expense of our judicial constitution was enormous. We paid more for allowance and compensation than other countries paid for their entire judicature. That

The Attorney General

arose from the mixture of payment by money and payment by fees.

MR. J. G. PHILLIMORE said, that all persons were gainers by a cheap administration of justice, and that to maintain cheap justice was one of the reasons for which that House existed. If the Judges in Westminster Hall were too numerous and too well paid, by all means reduce them; but let not the poor of the country be called upon to pay larger sums than they ought to pay in judicial fees.

MR. BASS said, the question was not one of cheap justice, but of what proportion of the expense of the County Courts should be borne by the suitors and by the country respectively. It was not the poor alone who were benefitted by these tribunals—the rich often availed themselves of their advantages; and if the fees now unnecessarily proposed to be reduced were still retained, it was his belief that nobody, from one end of the country to the other, would lose a night's sleep in consequence.

MR. STRUTT said, that 999 out of 1,000 debtors were induced to pay their debts from a knowledge of the facilities offered by those courts for enforcing just claims; and it was not fair that the unfortunate creditor, who was put to the trouble and expense of substantiating his claim in one of those tribunals, should be subjected to an additional charge for their maintenance. The burden ought to fall upon the public at large, to whose rights the existence of those courts operated as an effectual protection. It would, moreover, be a flagrant injustice while the cost of the Superior Courts—resorted to exclusively by the rich—was defrayed by the public, to insist on the tribunals frequented by the poor being supported by the suitors.

Question, "That the words proposed to be left out stand part of the Question," put, and *agreed to*.

Main Question put, and *agreed to*.

House in Committee.

Clauses 1 to 4 *agreed to*.

Clause 5.

MR. HADFIELD said, he wished to move, as an Amendment, at the commencement of the clause to insert the words "any special pleader of ten years' standing may be appointed a Judge of a County Court, and." Some of our ablest lawyers had been taken from special pleaders, who were especially versed in the law of evidence.

THE ATTORNEY GENERAL said, he must object to the Amendment. Special pleaders, he apprehended, would introduce technicalities, and not act on the principles of the Bill. There was a provision in the former Act that they should be qualified for the office after they had been called to the bar for a limited period.

MR. HADFIELD said, he would add to the Amendment a proviso that they should be first called to the bar.

THE ATTORNEY GENERAL said, he had no objection to fix a particular time after their call to the bar.

SERJEANT SHEE said, he did not think it was desirable to introduce special pleaders in any way. They were only persons who undersold the barristers, their very existence was of recent date, and they did not choose to observe the regulations of the bar.

THE ATTORNEY GENERAL said, that on referring to the existing Act, he found that special pleaders were eligible after they had been called to the bar for seven years. He hoped that would satisfy the hon. Member for Sheffield.

MR. CRAUFURD said, he would beg to ask whether the hon. and learned Gentleman would have any objection to another principle, which was not to exclude attorneys and solicitors. Those parties were admitted in Scotland; and one of the ablest Judges in that country, Mr. Sheriff Barclay, of Perth, was only a solicitor. He should move that a solicitor or attorney of ten years' standing might be qualified to be a Judge of a County Court.

Amendment, by leave, *withdrawn*.

MR. J. G. PHILLIMORE said, he should oppose the Amendment. The attorneys had quite power enough in the profession as it was. A single instance did not make a general rule, and he thought the line between the bar and the attorneys should be maintained definite and distinct.

MR. HADFIELD said, he hoped the hon. and learned Attorney General would adopt the Motion. He knew of no power attorneys possessed except that of selection in delivering briefs to counsel. There was no comparison on the part of barristers with a class of attorneys with whom he (Mr. Hadfield) was acquainted for a knowledge, not only of evidence, but of the law in all its departments.

THE ATTORNEY GENERAL said, he would not discuss the fusion of the two branches of the profession proposed. So

long, however, as the judicial bench in Westminster Hall was recruited from one branch of the profession, he thought it was best to keep up the distinction, more especially in the County Courts. On those short grounds he opposed the Amendment.

MR. W. WILLIAMS said, many of those gentlemen who were now Judges of the County Courts had been originally attorneys. It was but natural, however, that barristers should oppose attorneys.

Amendment, by leave, *withdrawn*.

MR. HENLEY said, he objected to the power the clause gave to the Judges, in case of absence, to allow another Judge to act for them.

THE ATTORNEY GENERAL said, that the clause did not increase the power already existing in that respect. It only prescribed the mode of appointment.

MR. HENLEY said, that it would seem to sanction the notion that these Judges had so much of their time unoccupied that they could supply the convenience of other Judges, and do their work.

Clause *agreed to*; as were also Clauses 6 to 19 inclusive.

Clause 20 (County Courts shall not have jurisdiction to try any action for criminal conversation, but that, by agreement of both parties to a suit, all other actions may be tried in such Courts).

MR. ROEBUCK said, he wished to ask on what ground actions for crim. con. were excluded from the jurisdiction of the County Courts? He also wished to know why, in the case of causes beyond the jurisdiction of County Courts, the consent of both parties was required for their trial in those Courts?

THE ATTORNEY GENERAL replied, that County Courts were established in order to afford a cheap and speedy means for the recovery of debts, and for the administration of justice in certain cases; but if jurisdiction was given to those Courts over all causes which were now cognisable by the Superior Courts of Common Law, he apprehended that it would be necessary to establish a subordinate set of Courts to determine the class of cases which were at present within the jurisdiction of the County Courts.

MR. ROEBUCK said, he always understood that County Courts were established with the avowed object of bringing justice home to every man's door. If, then, there was in any case a right of action for criminal conversation, why should not the

means of redress be open to the poor man as well as to the rich? The poor man felt the injury he sustained in such a case quite as keenly as the rich man, but, under present circumstances, his poverty prevented him from obtaining justice.

MR. J. G. PHILLIMORE said, he would remind the hon. and learned Member for Sheffield that the damages laid in cases of criminal conversation were frequently of enormous amount, and that great delicacy of judgment was required on the part of the Judges by whom such cases were tried. He thought, therefore, that the jurisdiction of the County Courts should not be extended to cases of that class.

MR. ROEBUCK said, a man could bring an action for libel in a County Court, and on what ground was he precluded from proceeding for criminal conversation in such a Court?

MR. HENLEY said, he did not see why, if cases of libel and seduction could be tried by consent in County Courts, the jurisdiction of such Courts should not be extended, with the consent of the parties to actions for criminal conversation.

MR. MURROUGH said, he thought it would be most dangerous to give County Courts jurisdiction in cases of crim. con. Under such a system facilities for collusion would be afforded, and plots of that kind might easily be carried out to fruition in County Courts.

THE ATTORNEY GENERAL said, he was of opinion that cases of collusion would be more likely to occur in the inferior than in the superior Courts, and he thought, therefore, that it was desirable to reserve the jurisdiction in actions for criminal conversation to the Superior Courts.

MR. M'MAHON said, that the clause would give jurisdiction to County Courts, by consent, with respect to all actions in Courts of Common Law; he should, therefore, move an Amendment giving County Courts similar jurisdiction with respect to suits in equity.

THE ATTORNEY GENERAL said, he should oppose the Amendment, which was *negatived* without a division.

MR. M. T. BASS proposed an Amendment, to extend the jurisdiction of the Courts beyond £50, without consent of parties, which was also *negatived*.

On the Question that Clause 20 stand part of the Bill,

MR. CRAUFURD said, he should oppose the clause, and hoped the Committee

Mr. Roebuck

would strike it out, as in the event of its being agreed to it would clash with the clauses which he intended to move at a future stage.

THE ATTORNEY GENERAL said, he hoped the Committee would adopt the clause as it stood. The Commissioners were unanimous in their opinion that the jurisdiction of the County Courts should not be extended to any other causes than those mentioned in the clause without the consent of the parties to the suit.

Clause *agreed to*.

Clause 21 (Cases may be removed from the jurisdiction of the County Court, in which a set-off was admitted against the original account exceeding £200).

MR. SEYMOUR FITZGERALD said, he should move to strike out the words "provided the amount of the claim exceeds the sum of £200." He did not see why, if the actual sum in litigation was only £10, whether the set-off was £200 or £2,000, the County Court should not deal with such cases. If the clause were agreed to in its present shape, it would exclude all running accounts from the jurisdiction of those Courts.

THE ATTORNEY GENERAL said, he would accept the Amendment.

Clause, as amended, *agreed to*; as were also Clauses 22 to 72 (C) inclusive.

Clause 72 (D), Salaries of Judges.

SIR JOHN PAKINGTON said, he considered the present would be the proper time to move the Amendment of which he had given notice for equalising the salaries of the County Court Judges at £1,500, instead of at £1,200 per annum, as proposed in the Bill. Those Courts occupied now a most important position, and he thought that the public interests required that every precaution should be taken to insure that the Judges should be highly qualified. The task he now had to perform was simplified by the admission contained in the Bill—that hereafter the salaries of the Judges ought to be uniformly of one amount, therefore he need not dwell on that point. A recent Act gave power to the Treasury to assign to them a salary not exceeding £1,500 a year, and not below £1,200. That discretionary power on the part of the Treasury had been condemned by the Lord Chancellor and by the country at large, and was wisely surrendered by the present Bill. The question now was, whether the salaries should be equalised at the amount of £1,500 a year, or, as the Bill proposed,

at £1,200. When the first County Courts Act was passed in 1846, jurisdiction was given to the Judges of those Courts only in cases not exceeding £20 in value. A salary of £1,200 was assigned to them, but they were left free to add to their income by following their profession as barristers. In 1850 the jurisdiction was extended to cases of £50 in amount, and of course the business of the Courts was greatly increased. The next Act, in 1852, regulated the salary of the Judges, so that it should not exceed £1,500, or fall below £1,200, but by the same Act the Judges were restricted from following their profession as barristers. In the exercise of the discretion given by the Act the Treasury decided, in 1854, that a very considerable number of the Judges—he believed one-third—should receive the maximum salary of £1,500 a year, on the ground of the rapidly increasing duties of their office. Since then not less than six or seven Bills had been passed adding to the labours of the County Court Judges, and he now appealed to the House to decide whether it was not important to the interests of the country that the income of the Judges should be fixed at such an amount as would secure the services of men qualified to discharge the increased duties with efficiency. He would now give the House some idea of the amount of business done in these Courts by stating that, in 1851, not less than 441,000 complaints were entered for sums amounting in the whole to £1,624,916, of which £618,000 were received during the year to the credit of the suitors, and £615,000 were actually paid over. He might safely say that since then the amount had greatly increased. Considering that the Judges were obliged to abandon their profession as barristers, to take residences in the country, and to support properly their social position—considering also that the business of the Courts had greatly increased, he thought that the higher salary of £1,500 would not be more than a reasonable remuneration for the duties they had to discharge. Let the House compare the salary he now proposed to give with the remuneration given to some other legal functionaries. The senior Commissioner of Bankruptcy received £2,000 a year, and the other Commissioners £1,800 each. The first Insolvency Commissioner received £2,000 a year, and the subordinate Commissioners £1,500 each. The duties discharged by the County Court Judges

were fully as important to the public as the duties discharged by those officers, and required an equal degree of capacity, professional knowledge, and experience. The Chairman of the Quarter Sessions Courts in Ireland received from £800 to £1,000 a year each, and were allowed to practise at the bar besides. Now, should not gentlemen qualified to fill the office of a County Court Judge, and having the dignity and station of that office to maintain, be put upon, at least, as good a position as the Chairman of the Quarter Sessions Courts in Ireland? Now, let the Committee consider for a moment the objections that were raised to the proposed increase of the salaries of the County Court Judges. It was in the first place contended that their labours were not so great, and their time not filled up to such a degree in the discharge of the duties of their offices as to entitle them to a higher amount of remuneration than that which they at present received. His answer to that objection was that such a rearrangement of the districts in which those Judges presided might be effected as to occupy their time to any extent which might be deemed to be desirable. The next objection which was urged to any increase of salary was, that those Judges held other situations from which they derived considerable emolument, and a case had, he believed, lately occurred in which a learned gentleman who presided in one of the County Courts held at the same time no less than three recorderships—namely, those of Plymouth, Devonport, and Wells. [Sir G. GREY: There is no salary attached to the last-mentioned recordership.] He was glad to be corrected by the right hon. Baronet; but he must say that he regarded the combination of different situations in the person of a County Court Judge as in principle most objectionable; and, being of that opinion, he saw no reason why such combination should be permitted to stand in the way of the change which he proposed. It was also urged in opposition to that change that it was totally unnecessary, inasmuch as no difficulty was ever experienced in finding in Westminster Hall barristers who were ready to accept the office of County Court Judge at a salary of £1,200 a year. That was a proposition which he was not prepared to dispute; but he must at the same time maintain that, in order to uphold the public interests, the real question in connection with the subject to be considered was, not whether

barristers ready to accept the office at that salary could be found, but whether the services of men of high professional qualifications could for that amount be secured. He considered that such would not be the case, and, therefore, he felt justified in pressing his Amendment.

Amendment proposed, in page 21, line 4, to leave out the word "twelve," and to insert the word "fifteen," instead thereof.

THE CHANCELLOR OF THE EXCHEQUER said, that before deciding whether the salaries of the County Court Judges should be raised to the amount proposed by the right hon. Gentleman, there was a preliminary question to be decided — namely, whether the salaries, if increased, should be placed upon the Consolidated Fund or provided for out of the fees included in Schedule C? In proposing the sum of £1,200 per annum, the Government had been under the impression that it was an adequate salary for the County Court Judges. The only means of determining the correctness of that impression was by seeing whether persons competent for the discharge of the duties could be obtained for that sum. His (the Chancellor of the Exchequer's) noble and learned Friend the Lord Chancellor, who of course had better means of knowing whether that was so or not than any Member of that House, was of opinion that the salary of £1,200 a year was a remuneration sufficient to insure the public the services of barristers fit for the duties of the office. There was an allowance, too, for travelling expenses, which was a considerable addition to the receipts of many of the Judges, and which probably more than covered the exact expenses to which they were subjected. Her Majesty's Ministers had acknowledged the principle that the amount of the salaries of the County Court Judges should not be left to the discretion of the Treasury, by proposing that a uniform rate of £1,200 a year should, in their regard, be adopted; and, therefore, the only question which the Committee had to determine was, whether that sum should be increased to £1,500 per annum. He could not help observing that on many occasions lately the functions of the House of Commons and of the Government seemed to be somewhat inverted. The House of Commons used to be a check on the prodigality of the Government in proposing votes of money for the discharge of public duties; but lately, without going so far as to say that the Government had acted as a check

Sir John Pakington

on the prodigality of the House of Commons, it certainly had been frequently their function to resist the pressure put upon them by the House for the imposition on the Exchequer of allowances for pensions, salaries, and the like. The whole charge for the County Courts imposed on the Consolidated Fund, if this Amendment and the Amendment for raising the salaries of the clerks were carried, would be actually greater than the charges of all the Superior Courts of Law and Equity put together. If the proposition were adopted, it would be very desirable that there should be a clear understanding that, in case there should be any redistribution of districts and a diminution of the number of Judges, those Judges whose duties might be thereby increased would have no right to complain of a breach of contract. It should also be understood that if, in consequence of future legislation, any additional duties beyond those involved in the increase of districts, should be thrown upon the County Court Judges, they would have no claim for any further increase of salary on that account. He further thought they ought to give their whole time to the public, and not to be permitted to hold any other office concurrently with that of a County Court Judge. There was another point connected with the subject which he thought deserved the attention of the Committee. At present County Court Judges were not within the General Superannuation Act. The police magistrates of London were engaged in the performance of extremely onerous duties, for the discharge of which they received only £1,200 a year, subject to an abatement of 5 per cent per annum under the operation of that Act; and they, moreover, upon their retirement, were entitled only to the superannuation allowance which the Act afforded; whereas the County Court Judges received their salaries free from all annual deduction, and were entitled to a retiring pension equal in amount to two-thirds of their salary, even though the Treasury should think proper to sanction their retirement after the lapse of a single year. In a clause about to be considered an addition would be proposed to the salaries of the clerks or registrars equal to about £30,000 a year, and if that increase as well as the present proposed increase of the right hon. Member for Droitwich were agreed to, an additional charge of £45,000 a year would be thrown on the Consolidated Fund. The Committee

would have to consider, in the event of their agreeing to those two augmentations, whether, instead of throwing them on the Consolidated Fund, it would not be desirable to raise them by means of fees. If the Committee thought they ought to be charged upon fees, he would point out that about a sufficient sum would be obtained by raising the first item in Schedule C (for every plaint) from 6*d.* to 1*s.* in the pound. The Committee ought to consider the effect of the numerous additional charges from time to time thrown upon the general taxation of the country. A Bill had already passed by which an additional charge of least £100,000 a year had been imposed on the public Exchequer, and by the Bill now before the Committee, about £170,000 more would be thrown on it, making £270,000, or in round numbers £300,000. If the proposed Amendments should be carried a further sum of about £50,000 would be added, making an annual charge thrown upon the public purse in the course of the present Session of £350,000. He would remind them that the fees of which he had suggested the increase were paid by persons who engaged in litigation in order to obtain their rights, and who would not probably complain of a little additional taxation, but would acquiesce in it without much difficulty. On the other hand, if the sum he had named were raised from the general taxation of the country, they must have recourse to taxes which had a very limited area of incidence, for although many taxes were doubtless paid by the general consumer, yet many, such as the income tax and the assessed taxes, were paid by a comparatively small portion of the community. He wished the Committee therefore to bear in mind the nature of the taxes from which the Consolidated Fund was fed, and not to do that which, instead of affording relief to the general public, would be certain to give rise to a feeling of discontent.

MR. W. WILLIAMS said, he was sorry the right hon. Gentleman did not offer a more decided opposition to the proposition. It had been stated that upwards of £600,000 was the amount recovered for creditors in the County Courts; and if he divided that amount by the sixty-two Judges, it gave an average of £6,000 for each. He thought that £1,200 a year was an ample salary for the recovery of such a sum.

MR. WHITESIDE said, that there were

three scales of payment for chairmen of Quarter Sessions in Ireland, ranging from £500 to £1,000. He should decidedly object to the payment by fees.

MR. MALINS said, that the principle of giving £1,500 a year had been affirmed in the case of sixteen or eighteen County Court Judges. Upon what principle had that been done? On the principle of the number of causes heard. But that was a most fallacious test, because in London the Judges had but to leave their houses in the morning and return to them in the evening. But, in other districts, the County Court Judges had to undergo the exertion of passing through the country. He was, therefore, opposed to the distinction of salaries. If there was any objection to increasing the salary from the Consolidated Fund, he thought it might be done, as had been alluded to by the right hon. Gentleman (the Chancellor of the Exchequer), by increasing the fee from 6*d.* to 1*s.*

MR. GLADSTONE said, he was one of those who objected to the increase of the salaries of the County Court Judges, and he regretted that the observations of the Chancellor of the Exchequer had not been more decidedly opposed to the Motion of his right hon. Friend opposite (Sir J. Pakington). No private Member of that House could move to increase a Vote in Committee of Supply, or a tax to be levied upon the people; and why, because there was a technical defect in the application of the rule, should he be allowed to propose the augmentation of a charge upon the country which the Executive Government declared to be sufficient to secure the proper discharge of the duties for which it was intended to provide? The Bill now before them had been introduced into Parliament with the sanction of the head of the law, who had the best means of information, and necessarily had the strongest sympathies with the learned members of that profession, and he, in the name of the Executive, announced that £1,200 a year was a sufficient salary for a County Court Judge. Her Majesty's Government would have done no more than their duty had they taken their stand upon that declaration of the Lord Chancellor, and had submitted to the House that it would not be wise for it to reverse the relative positions of the two powers. His right hon. Friend (Sir J. Pakington) had somewhat misunderstood the argument of those who opposed the increase. That argument was, not that there were in Westminster Hall

many lawyers who would take the office of Judge of the County Court for £1,200 a year, but that there were plenty who were able and competent to the discharge of that office who would be content with such a salary. That the gentlemen who filled those offices were fully competent to the discharge of their duties was an admitted fact, and was fully proved by the popularity of their Courts; that they were not men who, from patriotic motives, engaged to discharge those duties for inadequate remuneration was equally true. On the contrary, they were in general gentlemen who passed from a precarious income of a much lower amount to a certain and permanent salary of £1,200 a year, with the power of retiring upon two-thirds of that sum in case of well-certified bodily incapacity. It was right in the House of Commons to reduce the demands upon the public purse that might be made by the Government, but he would not believe that the House of Commons were about to take the functions of the Government out of its hands, and insist upon an augmentation of the burdens of the people.

SIR GEORGE GREY said, that when the question was raised in the early part of the Session by the hon. and learned Member for Sheffield (Mr. Roebuck), he (Sir G. Grey) asked the House to abstain from coming to a hasty decision, and to wait for a Bill which the Government had in preparation, when the question might be properly raised. He now repeated what he then said, that the Government adhered to the principle of fixed as against fluctuating salaries. He then stated that the Government thought a salary of £1,200, and a liberal allowance for travelling expenses, a sufficient remuneration for the duties which the County Court Judges had to perform; but he added that the Government might have made an error in forming an opinion, and it was for the House to decide, with a full knowledge of all the circumstances, upon the proper fixed salary for those Judges. His right hon. Friend the Chancellor of the Exchequer had weighed the various considerations which applied to this question. His right hon. Friend said, that, in the opinion of the Lord Chancellor, the most competent men in Westminster Hall were candidates for these appointments. He (Sir G. Grey) might also state that he received applications for the office of police magistrate, the salary of which was £1,200 a year, from men who were fully competent to discharge

Mr. Gladstone

those duties, and who would be also qualified, as he believed, to fill the post of Judge of the County Courts. But the Government knew that a strong feeling existed on the part of many Members of the House, and they anticipated that their proposal might not be successful, and that the House might adopt the proposition of the right hon. Baronet (Sir J. Pakington). He would candidly say that one of the greatest difficulties that pressed upon him was the arrangement made by his right hon. Friend (Mr. Gladstone) when Chancellor of the Exchequer, by which a certain number of these Judges received a salary of £1,500 a year. He believed that that arrangement was a great error—that it was based upon a fallacious calculation, and that it had produced dissatisfaction among those not included in the number. He was not a Member of the Government at that time, but it seemed to him that that arrangement was the strongest argument for the increase now proposed.

MR. GLADSTONE said, that his right hon. Friend ought to be aware that the Motion for raising the salaries of the County Court Judges did not originate with the Treasury, but was pressed upon it by the noble Lord now at the head of the Government, who was then Home Secretary. He (Mr. Gladstone) did not consider himself permitted to consider what was a fit salary for County Court Judges, or he should have decided that question without hesitation. His was simply a Ministerial duty. The Act of Parliament had prescribed the path in which he was to walk, since the salaries of the Judges of those Courts were fixed between £1,200 and £1,500. If blame there was, his hon. Friend (Mr. Wilson), who was then Secretary to the Treasury, shared the taunt of his right hon. Friend (Sir G. Grey) with him. His hon. Friend would remember that, on referring to the Act of Parliament, it was not believed that they had a discretion, since it appeared to be the intention of Parliament that there should be varying salaries. That was simply a question of the construction of an Act of Parliament which was now going to be repealed. As the Judges affected by this decision had only a life interest, he was surprised to hear that that arrangement constituted so serious a difficulty in the way of the right hon. Gentleman.

MR. HENLEY said, it was distinctly

stated by the Government that the Lord Chancellor had come to the determination that £1,200 a year was a sufficient salary for these Judges, and that there was no difficulty at that salary in getting plenty of persons fully qualified to fill those offices. When the Judges were first appointed it was uncertain what their duties would be. Fresh duties had since been put upon them, but no one had said they had more than they could do: they must, therefore, have had an easy time of it at first. Seeing that the Government thought that fit men could be found at the salary offered, he should not feel justified in going against the Government, whose duty it was to decide the question. If the Government proposed to give too much, it was the duty of the House of Commons to hold their hands; but it was not the duty of that House to make the Executive Government spend more money than they declared to be necessary. He regretted that the Government had not spoken with greater firmness against the proposition.

Question put, "That the word 'twelve' stand part of the clause."

The Committee divided:—Ayes 185; Noes 63; Majority 122.

Clause agreed to.

Clause 72 (E). (Registrars to be paid by salaries.)

MR. KENDALL said, he would now beg to move the Resolution of which he had given notice, relative to the payment of Registrars.

Amendment proposed, in page 21, line 12, to leave out the whole of the clause after salaries, and insert—

"And the principle on which the said salaries of the Registrars shall be fixed and regulated, shall be that the Registrar of each Court in which the plaints entered do not exceed the number of two hundred in a year, shall have an annual salary of one hundred and twenty pounds; and that in Courts where the plaints exceed two hundred in the year, the salaries shall be increased by sums of five pounds for every twenty-five additional plaints up to one thousand plaints inclusive, and then by sums of four pounds for every twenty-five additional plaints, and that such salaries shall be confined to proceedings within the ordinary and Common Law Jurisdiction of the Court: Provided, That no Registrar shall be paid a less salary than one hundred and twenty pounds per annum."

MR. STANHOPE said, he thought no justice really cheap that was not well administered. In his opinion, it would be much better to charge a small extra fee on each plaint in order to secure the ser-

vices of a competent Registrar than, by reducing the fees, to run the risk of having an officer unable or unwilling to discharge his duties.

THE CHANCELLOR OF THE EXCHEQUER said, that the rule of the House was, that while the Government were responsible for the fixing of the specific amount of any Vote they proposed, no private Member could move the increase of that amount, although it was competent for him to move that it be diminished. It was true that local fees and local rates did not come within the same category as taxes paid into the public Exchequer, yet both these classes of imposts were equally levied from the Queen's subjects, and also equally entitled to the vigilant guardianship of that House. The proposal for the remuneration of the clerks of County Courts contained in the clause now under consideration was founded on the recommendation of the Commissioners specially appointed to inquire into the subject. Those Commissioners stated their opinion to be that the suitors ought to contribute a sufficient sum to remunerate the clerks and high-bailiffs of the Court, while other charges should be defrayed at the public expense; and they suggested a scale of salaries for the clerks, commencing with £65, and ending with £1,020, thus exhibiting a considerable increase on many of the existing salaries. If the proposition of the hon. Gentleman were adopted the recommendation of the Commissioners must be set aside, and the country would be saddled with a burden of £60,000 a year, instead of one of £30,000—the extent of the fair and reasonable addition to the income of the clerks proposed to be made by the Bill. He therefore hoped the Committee would not accede to the Amendment.

MR. BENTINCK said, he regarded the opinions of many Members of that House, who were fully acquainted with the subject, as deserving of even greater weight than those of the Commissioners referred to by the right hon. Gentleman the Chancellor of the Exchequer. The rule restricting private Members who might wish to propose the increase of taxation was no doubt very excellent when not pushed to extremes; but an exception ought to be made in its application in a case like the present, where the proposition of the Government would render those Courts inefficient.

MR. CAYLEY said, he thought the right hon. Gentleman the Chancellor of

the Exchequer was under a misconception with respect to the Commissioners; it was his belief that they had not entered into the question of the remuneration of the Registrars at all. That was a totally different question from the last, and certainly the Amendment should meet with his support. The Bill had gone hastily through the House, mainly out of deference to the Commissioners; yet he believed that the Commissioners had never inquired into the duties or the salaries of the officers of the Court.

MR. MULLINGS said, the scale of salaries in the Report of the Commissioners was prepared by some Gentleman connected with the Treasury. He protested against it at the time, but as there was a strong desire on the part of the Commissioners that they should concur in the Report, he did not press his objection, but he still protested against so low a scale.

MR. SPOONER said, he entertained a strong objection to the unconstitutional proposal of leaving the amount of salaries of a large class of professional men to be fixed and regulated by the Commissioners of the Treasury. Considering the nature and extent of the onerous duties of the County Courts clerks, he thought that the minimum of remuneration proposed in this clause of the Bill was much too small. It should be considered that the clerks, under the existing law, were required to keep open an office daily from ten to four, and to give proper attention personally or by their clerk to all persons calling for information and official aid. He had made himself acquainted with the details of a County Court clerk's office, and he could say that this book-keeping involved considerable labour and attention to detail, for not only were the entries of the proceedings numerous, but when judgment was carried by a plaintiff the payments were often made in very small instalments extending over a lengthened period of time, and required the utmost attention and accuracy. He earnestly hoped the House would concur in doing justice to a body of men so useful to the suitors and the public as the County Court clerks.

MR. WILSON said, the objection of the hon. Member for North Warwickshire (Mr. Spooner) was entirely removed by an Amendment, of which he had given notice, to fix the salaries in strict conformity with the recommendation of the Commissioners.

Question, "That the words 'to be' stand part of the Clause."

Mr. Cayley

The Committee divided:—Ayes 73; Noes 162: Majority 89.

MR. WILSON said, in adopting the sense of the Committee as evinced by the division, he would now beg to propose an Amendment to the effect that all Registrars in Courts where the plaints issued exceeded 200 per annum should have an annual salary of not less than £120, with an addition of £5 for every twenty-five plaints up to 1,000, and beyond that number £4 for every additional twenty-five plaints up to 6,000, making in the whole £1,080 per annum, and when the plaints exceeded 6,000 in number then the salary to be fixed by the Commissioners, with the consent of the Lord Chancellor.

Clause agreed to.

Clauses up to 71 inclusive were agreed to.

House resumed; Committee report progress.

THE MASTER OF THE ROLLS AND THE ATTORNEY GENERAL FOR IRELAND.

On the Motion that the Unlawful Oaths (Ireland) Bill be read a third time,

MR. ROEBUCK said, he would beg to ask the right hon. and learned Member for the University of Dublin whether he would fix a day for a discussion on the subject which had occupied the attention of the House at an early period of the evening? He hoped the right hon. and learned Gentleman would put such a Resolution upon the paper as would enable the House to come to a distinct decision.

MR. NAPIER replied that he must leave it to the right hon. and learned Attorney General for Ireland to take such steps on the subject as he might think fit.

MR. HORSMAN said, the right hon. and learned Gentleman had made a charge against his (Mr. Horsman's) right hon. and learned Friend the Attorney General for Ireland, and the Government waited to see whether it was his intention to bring that charge before the House in a definite form. The Government had a right to expect that the right hon. and learned Gentleman would not shrink from supporting the charge he had made, but would submit a substantive Motion to the House, and so give the Government an opportunity of meeting his accusation.

MR. WHITESIDE said, he thought the discussion highly irregular, and he considered the speech of the right hon. Gentleman (Mr. Horsman) most unjustifiable. His right hon. and learned Friend (Mr.

Napier) said he was in possession of a statement with which the right hon. and learned Attorney General for Ireland requested to be furnished, and his right hon. and learned Friend promised that that statement should be placed in the hands of the Attorney General for Ireland. The statement had been sent to the Attorney General for Ireland, and he (Mr. Whiteside) thought, when the right hon. and learned Gentleman had considered the subject matter of that statement, the onus would lie upon him of taking such course as he might think fit.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD) said, he had not asked for any statement. The House had been informed that the Master of the Rolls had sent to an hon. Member of that House a statement which he (the Master of the Rolls) intended himself to read from the bench that day. He (the Attorney General) said he supposed that statement had been sent to the right hon. and learned Member for the University of Dublin (Mr. Napier); that he understood it involved charges upon his conduct as Attorney General for Ireland; and he challenged the right hon. and learned Member to produce that statement. He never asked the right hon. and learned Member for the document. The right hon. and learned Gentleman offered him a document which he (the Attorney General) did not accept, and he repeated what he had before said—that he challenged the right hon. and learned Member, if he dared, to bring the subject under discussion. He (the Attorney General) was prepared to meet the charge, and it was the duty of the right hon. and learned Gentleman (Mr. Napier), as a man of honour, and as a Member of that House, who had been made the vehicle of bringing the charge before the House, to give him (the Attorney General) an opportunity of meeting and refuting it.

MR. NAPIER said, he conceived that he understood his duty as a man of honour and as a Member of that House. He had defended the conduct of the Master of the Rolls, and he had been furnished with a statement which he had that day received from Ireland. He had offered to place the statement in the hands of the Attorney General for Ireland, and, when the right hon. and learned Gentleman answered that statement, he (Mr. Napier) would be prepared to do his duty.

Bill read 3^d, and passed.

DIVORCE AND MATRIMONIAL CAUSES BILL (LORDS).

On the Motion for deferring the Second Reading of this Bill,

SIR JAMES GRAHAM said, that adverting to the clause in the Bill, which prohibits persons who have been guilty of adultery from intermarrying, he thought that as it was likely to give rise to much discussion he would call upon the noble Lord at the head of the Government to state whether it was his intention to proceed with the Bill at that late period of the Session?

VISCOUNT PALMERSTON said, he would state the intentions of the Government on an early day next week. With respect to the clause referred to, it was, in his opinion, a cruel and immoral one; and, as far as he was concerned, he would not assent to it.

Second Reading *deferred*.

The House adjourned at a quarter before Three o'clock till *Monday* next.

HOUSE OF LORDS.

Monday, July 14, 1856.

MINUTES.] PUBLIC BILLS.—1st Unlawful Oaths (Ireland); Turnpike Acts Continuance (Ireland); Railways Act (Ireland) 1851, Continuance; Criminal Justice.

2nd Revenue (Transfer of Charges); Incumbered Estates (Ireland); Court of Chancery (Ireland).

3rd Imprisoned Debtors Discharge Society; Commissioners of Supply (Scotland); Registration of Voters (Scotland); Aldershot Camp; Drainage (Ireland); Grand Juries (Ireland); Church Building Commission; Dulwich College.

ROYAL ASSENT — Exchequer Bills (£4,000,000); Small Debts Imprisonment Act Amendment (Scotland); Joint-Stock Companies; Procedure before Justices (Scotland); Distillation from Rice; Magdalen Hospital, Bath; Endowed Schools at Moulton; Grand Juries; Turnpike Acts Continuance; Advowsons; Militia Ballots Suspension.

ITALY.

LORD LYNTHURST: I am anxious, my Lords, before we separate, to call your attention to the affairs of Italy. I have from time to time applied to my noble Friend opposite (the Earl of Clarendon), to furnish us with information on that subject, but my applications have been uniformly unsuccessful. I regret to say that we do not very often succeed in obtaining information from my noble Friend, or in procuring papers containing information to be laid upon the table, until such information has ceased to be interesting or impor-

tant. Happily, however, in this case other sources of information are open to us. Deplorable, indeed, my Lords, is the situation of Italy. Every man of education—every man with any feeling—must deeply sympathise with the situation of that most interesting and unfortunate country. When my noble Friend first furnished the protocol of the 8th of April, the world was taken by surprise, and Italy hoped and expected great and important advantages from that publication. I regret, however, to say that those hopes and expectations have been completely disappointed. I have often questioned within myself the policy of that publication, unless the Governments of France and England intended to follow it up, not by a mere interchange of diplomatic notes, but by some efficient action. For, my Lords, it is impossible that men should continue to live under a foreign military tyranny without being eager to break their chains; and to raise the hopes and expectations of persons in that situation, and afterwards to disappoint those hopes, is a course that must lead in all probability to a most calamitous state of things. I need hardly add, my Lords, that of all military tyranny the military tyranny of Austria is the most galling and odious. It is not in Italy alone that we have had experience of the military occupation of Austria; we have had more recent evidence with respect to it in the Principalities. The Austrians entered the Principalities as friends and protectors—professedly as friends and protectors, in virtue of a treaty with the Sovereign of that country. It might be supposed that under such circumstances the Austrians would maintain most strict discipline, that they would abstain from all violence and injury to the inhabitants, or that if, by any accident any injury or violence were committed, that it would be speedily redressed. Unfortunately, however, during their occupation they pursued a different course, and I think I am authorised, from the information I have received, in saying that the people of that country lament that Russian invasion was exchanged for Austrian protection. The Austrian occupation of those countries has been spoken of in favourable terms; but I have seen so much of the evidence from official documents that I feel certain that the representation I have made is perfectly correct. My Lords, by the Treaty of Vienna the limits of Austrian power in Italy was strictly defined. They have passed this

Lord Lyndhurst

boundary; they have stretched themselves along the coast at Ancona, and they are now in the occupation, with an immense military force, of the duchy of Parma and a portion of the State of Modena. They command, indeed, the whole north of Italy. I will not enter upon an inquiry how far their original entry into the Legations was legal, and how far it was justified by the condition of the country and of the Governments. These things I pass over. They are well worthy of consideration and discussion, but they would take me from my present object. What I wish is to bring before your Lordships the present state of that country. From the time the Austrians have passed the boundary seven years have elapsed. For seven years they have had possession of this territory, and they have not only ruled it, but they have placed a greater portion of it in a state of siege, and under martial law during the whole of that period. My Lords, when is this to cease? What termination is to be put to this state of things? I ask this of my noble Friend. He will tell me that the short answer returned by the Austrian Government to this question is, that they will leave this territory when they can do so without danger of insurrection. Now, mark the course of things. Bad Government produces dissatisfaction, disturbance, and possible insurrection. That leads to the invasion of a military force. The possession by a military force continues and increases dissatisfaction, protects bad government, produces disturbances, and renders it impossible to remove the troops; so that, by this argument, to the evils of the possession of such a country by a hostile force there appears to be no reasonable termination. My Lords, that is a sad prospect for Italy. If it be true, is there no remedy? What are we to say of the condition of that unfortunate country? My Lords, I refer to the suggestion which I think proceeded from my noble Friend opposite. I refer also to the suggestion of the Sardinian Government as to the mode in which these evils may be terminated. The plan is this—establish a satisfactory Government—a Government that will satisfy the people; establish a small national force for the purpose of keeping the peace, and then you may withdraw your army. Until that is accomplished it is impossible to do so. Now, it must be allowed that this plan is specious; if it could be carried into effect it would be satisfactory. But, my Lords, it cannot be done without the consent of

Austria. Will she consent to do it? Will she consent voluntarily? If she will not consent by her voluntary act, will she consent by the pressure or persuasion of the Western Powers? A man, my Lords, must be credulous indeed who should suppose that Austria will voluntarily quit the possession of these districts. It has been said sometimes that the inconvenience of this possession is such that Austria by her own act will withdraw her troops. I know a little of Austria; and I am sure that the inconvenience must be of a nature much more strong than I can conceive to lead her to withdraw her troops from this part of Italy. I think, therefore, that so far as relates to her voluntary acts, the withdrawal is altogether hopeless. It has been thought that she may possibly yield to the pressure of France and England. I look forward to that state of things with the anticipations of agreeable results. I do hope that the pressure will be such as to accomplish the object which I have in view. I do not mean a pressure by the force of arms, but by the moral effect which would be produced by that pressure. But I may be permitted to say that, although a short time ago I was somewhat sanguine as to the effects of the concurrence of France and England, yet that certain events have since occurred and certain symptoms have appeared, of such a nature and character as to lead me to entertain very serious doubts whether those hopes will be realised. Not that there is any coolness between the two countries or any want of energy on the part of England; but there are circumstances in the situation of France which lead me to doubt whether she is disposed cordially to co-operate on this subject: therefore, my Lords, although I do not absolutely despair of the state of Italy, I confess I feel very great anxiety, mixed with very great distrust and fear, that the object which I have in view may not be accomplished. My Lords, my noble Friend, in the document to which I have referred, speaks of the grievous notoriety of the proceedings of the Government of Naples. It is impossible not to say a word on that subject. I will only say, in general terms, that nothing, in my opinion, can exceed the infamy of those proceedings. I will not attempt to describe the conduct and policy of that Government, because any terms that I could make use of would fail to impress your Lordships' minds with the reality of the evils under which the sub-

jects of that Government suffer. Nothing but a minute detail of circumstances of a most extraordinary kind which have occurred could possibly impress your minds with a distinct and accurate notion of the state of that country. I must leave this to the general impression of what you have read and heard. I will only refer to a publication to which I have before alluded—a publication by a right hon. Friend of mine, the Member for the University of Oxford (Mr. Gladstone). That publication was circulated extensively throughout the Continent of Europe. It went through various editions, and caused a great impression. An official answer was returned to it by the Government of Naples. I do not know how many of your Lordships have read that answer; but, so far from refuting the statements of my right hon. Friend, it only confirmed the accuracy of his details. That publication—I strike out everything but what fell under the observation of the author himself—a man of truthful character and conduct—that publication relates conduct on the part of the Neapolitan Government to mark the infamy of which is beyond my power of expression. But it may possibly be said that these occurrences took place four or five years ago, and that great improvements have taken place since that period. But, so far from any change having taken place, the same system has continued from that time to the present—more secrecy is observed, and there is more disaffection, but there is the same infamous system of tyranny and oppression. If it is suggested that a change has taken place, let me refer to what is passing at this hour in the kingdom of Naples—to the political trials that are going on, the counterparts of those described by my right hon. Friend (Mr. Gladstone), in which there has been a disregard of every principle of justice and a violation of every right. Persons have been suborned to be witnesses against the accused, and men have been threatened with imprisonment and punishment unless they consented to bear false witness. I will not go through the details, but your Lordships must have read them, and must have seen that a greater violation of right and principle never existed in the history of the world. But what makes the case worse—if it can be made worse—that this state of things is founded upon no law, not even upon the law of arbitrary Government. The constitution of Naples was sworn to by the King. After the

disturbances he ratified the adoption of that constitution, which has never been revoked, and is now the law of that country. The obligation of that constitution is, therefore, still in force, and everything has been done in open defiance of the law, and in direct violation of the constitution. My noble Friend told us, in the document to which I have referred, that although the general principle should be that one State ought not to interfere in the interior transactions of another, yet that there were exceptions to that rule—that there might be exceptions which not only give the right to interfere, but make it the duty of another Government to interfere—and my noble Friend applied that principle to the State of Naples. Three months and more have elapsed since the treaty of peace was signed, and since my noble Friend assented to that principle, and soon after a note was addressed to the King of Naples. When I asked my noble Friend, about a week ago, if the Government had received any return to that note, what was the explanation? Upon a subject so grave, so important, so interesting to the country, so interesting to mankind, mark! my Lords, what was the answer. The King of Naples had retired to Caserta, and, although the place is only a few miles distant, that was put forward as a reason for delay. Did you ever hear, on so grave a subject, such trifling—such absolute mockery—such insult? But I am told—and my noble Friend will tell me if I am right—that within the last two or three days an answer has been received. [The EARL of CLARENDON assented.] I see an assent on the part of my noble Friend, and I thank him for it, because that will lead me to another question. Is that answer satisfactory? I am told that it is extremely the reverse. I am told that the King of Naples denies the right of this country to interfere in the affairs of his kingdom, and that he not only denies the right, but positively refuses to give any explanation or reply to the remonstrances addressed to him. I will repeat the question. I ask my noble Friend whether that is the substance of the answer received to the important communication which he addressed to the King of Naples? My noble Friend shows no sign. Then I shall ask him to lay on the table of the House a copy of the answer, that we may have an opportunity of judging whether the information I have received is correct. There is one thing that strikes me as singular. There is no

Lord Lyndhurst

country in the world, I should say, more open to the power of England than the kingdom of Naples. If the King of Naples sets our power and authority at defiance, what is the interpretation which I put upon that conduct? It is this—that the Government of Naples feels that there is some lukewarmness, some backwardness on the part of France to co-operate with us in extreme measures for the purpose of obtaining the object which we have in view; and they think further, that we should not like to adopt measures which might give rise to conflict with Austria. This, then, is the state of things to which we are reduced. We threaten the Government of Naples. We say, "Your conduct is atrocious, is infamous; we require you to change it." They refuse to listen to our remonstrances, and we sit quietly down and take no further steps. What then becomes of the power and *présti*ge of England? There is another subject to which I wish to direct your Lordships' attention—I mean the occupation of a great part of Italy by the Austrian troops. My Lords, seven years have elapsed since Austria entered into possession of the Legations, and established a state of siege and martial law throughout the whole of that country. In an assembly of Englishmen it is not necessary to dilate upon what must be the state of a country occupied by a military force of foreigners establishing such a system as that. Of all instruments of arbitrary power martial law is the most effective and the most fatal. Acts of oppression are exercised without restraint or limit, and upon bare suspicion peaceable citizens are apprehended and thrown into prison. As Englishmen we have a very imperfect idea of what being thrown into an Italian prison means. We have a notion of well-arranged apartments, inspected and visited by magistrates and officials, and placed under most careful and responsible superintendence; but we must not transfer that notion to the loathsome dungeons in which men of education and men of station are imprisoned, on mere suspicion, with the vilest and most atrocious malefactors. Such is the state to which many of the inhabitants of the Legations are now reduced—occasionally, to be sure, there is a show of trial. But what species of trial? Trial by a military tribunal of foreigners, every member of which is subject to the control of the prosecution; a trial without any form, without any rule of law, in which

everything is directed, according to the will and discretion of those by whom the proceedings are instituted. And what is the result? The result, I am told from the highest possible authority, is, that since the Austrians have been in possession of the Legations, 200 prisoners have been shot, and between 2,000 and 6,000 sent into exile. I go to another spot—the Duchy of Parma. There has been a great increase in the military force of Austria in that Duchy. Piacenza was originally assigned as the place for the armed occupation of Austria, but that place has long become too small to hold the forces she has sent into the Duchy. A conflict has taken place between the invaders and the Government. The Government insists that the trial of parties accused shall be before the ordinary tribunals. What say the Austrians?—that they shall be tried by courts martial, composed of foreigners. Every man who is attached to the principles of freedom and fair dealing, and to the due administration of justice must wish that accused persons should be tried before the ordinary tribunals of the country. But but this fact has occurred, and it is a melancholy fact—that before the conflict took place the Austrians had seized a great number of persons and transferred them to the dungeons of Mantua, where they lie in a hopeless state; for if brought to trial, they will be tried according to the discretion of the Austrians. It is while this conflict is going on that it is consistent with duty for Her Majesty's Government to do everything to interfere and support the cause of the people; yet, my Lords, although this contest has been going on for a very long period, it is only within a few days that our Ambassador at Florence arrived at Parma. Whether we shall derive any great advantage from his presence, I will not pretend to say; but, if report speaks truly, his inclinations and opinions are opposed to the rights which it should be the duty of Her Majesty's Government to defend. I pass it over, and I come to another part of this subject—I allude to the kingdom of Sardinia. Every Englishman must feel the deepest possible interest in the fate and prosperity of that kingdom. We are related to it now by common institutions and by a brotherhood in the great struggle which has recently terminated. The advocates of foreign occupation say that Italy is not adapted to free institutions. The State of Sardinia is a striking refutation of

that opinion. Under the greatest difficulties, in a situation where the most active struggle was going on, Sardinia has succeeded in establishing constitutional Government, and in preserving it by the exercise of great firmness, moderation, and patience; and I am sure every man in this country and every one of your Lordships must feel anxious that nothing shall occur to impair, in any way, the benefits of that constitution. The state of things in that part of the Peninsula is one, however, which must cause the greatest anxiety. That Government is regarded with jealousy, with aversion, I may almost say with hatred, by the neighbouring Government of Austria. That Power regards the Sardinian Government as holding out a most dangerous example, and anything that can be done for the purpose of subverting it will be eagerly adopted by Austria. My Lords, in every constitutional Government there will be parties. In Piedmont there are the Radicals on the one side, and the Ultramontanes on the other; but there is in addition, a third and most dangerous party—the party of the priests—which has shown its sentiments towards the Government by its conduct in the affairs of the property of the Church. These bodies are all combined in a formidable opposition to the Government. Notwithstanding all this the great body of the population of the country is content and happy, and are active in their support of the constitutional Government. But the danger to Piedmont from abroad is not confined to Austrian intrigues, carried on within her—there are other dangers with which she has to contend. Immense armies are concentrated in her neighbourhood, which are being continually augmented. The least accident may create a collision which must bring down destruction upon the territory of Piedmont. But that is not the only danger to which the Sardinian Government is exposed by the formation of vast armies upon her frontier—armies already large, and increasing day by day. Their presence requires Piedmont to maintain a much larger and more expensive military force than her limited means would otherwise justify her in supporting, and therefore she is compelled to withdraw her financial resources from beneficial application in order to employ them in the maintenance of an army to defend her against the multitudinous forces of Austria. My Lords, I wish to impress upon you, as I desire to impress upon

the Government, the absolute necessity of giving the strongest moral support to Sardinia; and should an emergency arise—should a necessity occur—to give further the aid of its material support to a country which has deserved so well of Europe as Piedmont has done. We can never desert that country without a violation of duty. Allow me to point out to your Lordships the bitter feeling of Austria towards Sardinia, as exemplified in the case of the sequestrations. There never was an instance of such littleness—if the affair had been one between women, I should say, of such spite. I will just briefly describe the circumstances of that case. By the law of the country every subject can cast off his allegiance—that is, with the consent of the Government, and with that consent he can leave the country and become a foreigner—in every respect a foreigner, and, like every foreigner, he is allowed to hold property in the country. Now, after some disturbances at Milan, a great number of persons who were not at all concerned in these disturbances, but who felt that a further residence in that country would be uncomfortable, availed themselves of the general license to quit the country; but, being warned that particular caution was requisite at that time, every one of them applied for and obtained a special permission. The greater number of those persons established themselves in Piedmont, where they became naturalised, and thereby, according to the laws of that country, became entitled to all the privileges of Sardinian subjects. Many of them have become members of the Assembly in Turin. However, in consequence of some alleged suspicions the property of those persons in Milan was sequestered by the Austrians. No explanation was given, no grounds assigned, no evidence was stated, no justification offered; but that sequestration has continued, despite the continued and earnest remonstrances of Piedmont, down to the present time—a period of between three and four years. Having stated these facts to your Lordships, let me for a moment ask what is the course recommended by the friends of Italy? They are earnest in advising that there should be no attempt at insurrection; that for the moment the idea of an united Italy should be abandoned; that all hopes and wishes for revolutionary movements should be abandoned. The plan of an united Italy is impracticable. Revolutionary movement would be imme-

Lord Lyndhurst

diately crushed by the disciplined bands of Austria, and the pressure of her despotism would be increased tenfold. Such, therefore, must be the advice given by all real, genuine friends of Italy. I have taken some pains to inquire, and I understand that the great mass of the intelligent and well-informed men throughout Italy are most moderate in their views. They desire no great changes, they do not wish to alter the existing Governments; but what they desire, and what they are entitled to demand, is an impartial administration of civil justice and a firm, honest, and intelligent administration of affairs. Give them that, and I firmly believe the great majority of the people of Italy will be content. When the French in 1806 entered the Legations they established the French code of laws, and their civil affairs were firmly and honestly administered; the people, before discontented, became satisfied, happy, and wealthy, and that period of its history is regarded in that district as the happiest it has ever known. We know well that, in Tuscany, the laws which the good Duke Leopold introduced were productive of happiness and contentment among his people; and we also know that, at the present time the people of Piedmont are contented, happy, and prosperous. That is what the people of Italy now require—that is what will satisfy them, and I would advise them most strongly not to seek to disturb the boundaries of different States, but to labour with all moral force, by all the means in their power, to gain the objects they so much desired—impartial administration of justice—good and regular administration of civil affairs. My Lords, there is one way in which that object may be attained, and with facility—it is by the cordial union and earnest co-operation of France and England. Whether we may hope for that co-operation for such an object I will not undertake to predict—it may occur—it has occurred—and it has produced great benefit to the people of the country to whom that united action was applied. Such co-operation is the only hope of the Italian people, and I trust I shall have some explanation from my noble Friend which will justify them in cherishing that hope. My Lords, I very much regret that the Austrian Plenipotentiary at the Congress was not content to discuss with my noble Friend and the French Plenipotentiary the question of the affairs of Italy. At the same time I am not at all surprised, because

with Austria there is only one rule of government, and that is—force, coercion, direct military repression. It is a principle with Austria, that the people are for the Government, and not that Government is for the people. There is not one liberal idea in their whole system. For such a system to exist in another country, supported by foreign bayonets, must be horrifying; and with what feeling that system is regarded by the Italians we have most abundant evidence to establish. My Lords, I have thought it my duty to bring this most important and most interesting subject before you, and I trust that the very deep interest I take in it will be my excuse for addressing you at such length.

THE EARL OF CLARENDON: My Lords, during the course of the last two or three years it has been my disagreeable duty to meet with official reserve Motions which have been submitted to your Lordships by the noble and learned Lord on the foreign policy of this country. The statements of the noble and learned Lord have always been so lucid, and have been accompanied with such powerful appeals to the sympathy of your Lordships—although my noble and learned Friend declares himself to be only responsible, or rather irresponsible, for his own opinion, and that he speaks for no party—yet cannot help thinking that he is in some degree responsible; and although your Lordships have ever been most indulgent to those who speak under responsibility from the Ministerial benches, and especially with regard to the production of papers, yet I never at any time rose to follow my noble and learned Friend without a deep sense of the delicacy and difficulty of the duty I had to perform. I say this, the more particularly now, because I feel that there is so much in what has fallen from my noble and learned Friend that meets with the sympathies of the people of this country; that there is so generous an interest prevailing in this country in favour of Italy, and so great a desire that that country should emerge from the position to which she has been reduced by bad government, and be lifted up to the station which she is entitled to hold, and which she may hold by means of judicious reforms, that I feel an unusual regret that I cannot meet my noble and learned Friend by laying on the table of the House papers which would show what are the opinions of the Government, and what have been the steps taken to procure a better state of things in Italy.

But the correspondence on that subject is incomplete; it is still going on, and we have favourable expectations of the result. I can, therefore, conceive that nothing but injury would accrue to the cause my noble and learned Friend has at heart by the production at this moment of that correspondence. It might be the means of putting an end to the friendly and confidential communications with those Powers which are chiefly concerned in the condition and welfare of Italy. My Lords, we cannot improve the condition of Italy by force. We must come to an understanding with those countries from which the movement must proceed. Many of the facts to which my noble and learned Friend has alluded exhibit a state of things of long standing. There are many flagrant abuses of authority to which he has referred which seem to be the necessary consequence, to a certain extent, of the caprices of men in a corrupted and degraded state of society, and which can only be remedied by good Government and by a power which cannot be produced suddenly and by external pressure. I have endeavoured to collect all the information I can with respect to the present state of Italy, and to separate it from all exaggeration and all party spirit; and I admit that in order to establish a really better state of things—not only a state of things adapted to the character and wants of the people, but which must have some reference to the unfortunate circumstances of Italy—I am certain, (and I rejoice to hear the opinion and advice given by my noble and learned Friend on that subject), that revolution, however momentarily successful, will not lay the foundation of any substantial prosperity. It is our earnest hope that the people of Italy are too sagacious and have profited too much by former experience, not to resort to means, the result of which will render their position worse. My Lords, nothing has been done by Her Majesty's Government either to promote or excite revolution. I feel that it would be both unjust and cruel to excite expectations which could not be realised—or rather, I should say, expectations which we are not prepared ourselves to realise; because if we excite expectations on the part of a portion of Italy—if we lead them to expect aid from us, I say that we are bound to render that aid. And though I am prepared to say that there are cases in which intervention in the affairs of other States not only becomes a right but an

obligation as strong as any, still I hold, as a general rule, that interference with the internal affairs of other States is not justifiable, and can only be resorted to upon the clearest grounds and as a last resource. It was in this spirit, and without any desire of promoting revolution or exciting false hopes, and with the view of laying the foundation of substantial reforms, and of procuring the speedy evacuation of Italy by foreign troops, that the subject was brought before Congress. In fact the initiative was taken by France; and this I think may be taken as a proof that the Government of France desired the withdrawal of the French troops from Rome. I cannot but regard with satisfaction that the subject was brought forward before the Congress, notwithstanding that it has been most bitterly condemned in some quarters. I was sorry to hear, even from my noble and learned Friend, an expression of regret that the matter should have been brought before Congress unless measures of great vigour were to be taken by the Governments of France and England. We have been told that we had no right to bring the subject forward before the Congress at all; that, by doing so, we were discussing the independence of States not represented at Congress; that it was calculated to defeat the object which we had in view, and that the representatives of the Governments who brought the question forward are responsible for the consequences which may ensue. But I say we were fully entitled to bring that question before the Congress; and when all the great powers of Europe were engaged in the great work of pacification, when they were solemnly binding themselves to evacuate the territory of Russia, when Greece, Turkey, and the Principalities were to be relieved on the earliest occasion from the presence of foreign troops, I say it was impossible not to cast our eyes towards Italy, which for years had been occupied by foreign troops without any sufficient pretext or justification. I shall not enter, any more than my noble and learned Friend, into the causes which led to that occupation; but we felt that it was a measure only to be justified by urgent necessity, and that it ought to cease with the causes which gave rise to it. We felt also, as my noble and learned Friend has said, that that necessity would never arise unless accelerated. We felt that the initiative would not be taken by the Italian Government. It may be convenient for

The Earl of Clarendon

Sovereigns to rely upon the aid of foreign bayonets for temporary support rather than incur the anxiety and trouble of rendering themselves independent by effecting reforms which would secure for them the gratitude and affection of the people. It was with this object that we brought this question before the Congress; and we have good reason to be satisfied with having done so. And here let me take this opportunity of adverting to the conduct of Count Cavour at the Congress. The conduct of Count Cavour, the representative of the State most deeply interested in the result of the discussion, was throughout moderate and dignified, and he well sustained the reputation which he had already earned for himself by the services which he had rendered to his country. To him, more than to any other man, is Sardinia indebted for the establishment of liberal institutions; whereby he has rendered great service to Italy by proving that the Italian people are not unfit to enjoy liberal institutions, and that rational liberty is not inconsistent with devoted loyalty; and that both may be enjoyed in that country without risk of revolution or danger to public order. I feel the most entire reliance on the spirit by which Count Cavour is actuated, and I believe that the Austrian Government itself is not more opposed to insurrections in Italy than he is, or would do more to prevent it. It is true, as my noble and learned Friend has said, that three months have elapsed since this discussion took place; and it is also true that there are no visible results. But my noble and learned Friend must not infer from this that nothing has been done. As much has been done as could be undertaken in the time that has elapsed. I wish I could say that the result of our communications with the King of Naples was satisfactory. I cannot do so, for it is impossible that any two Governments could be more at variance in respect of the facts of the case than Her Majesty's Government and the Government of the King of Naples. Our representations were made to him in the most friendly spirit. We stated our reasons for believing that the existing state of things was dangerous to the stability of his throne, and also injurious to the peace of Europe. We particularly pointed out what were the dangers which threatened His Majesty, and we more especially pointed to that which my noble and learned Friend has suggested as the great difficulty—the necessity of a

better administration of justice. We recommended a general amnesty for political offences, and such a system of Government as would rally round it the confidence of the people. We pointed out the inexpediency, not to say the danger, of a policy characterised by systematic mistrust and unjust persecution, and, above all, we showed how essential it was that all subjects of His Majesty, irrespective of their political opinions, should have sufficient security for their persons and their property. I think, my Lords, that a milder representation with respect to the existing state of things could hardly have been addressed to any Government. It is true that at last we have received an answer to this representation, but we have not yet been able to confer with the Emperor of the French on the subject of this answer. I hope I shall not bring the French Government under the censure of my noble and learned Friend by saying that the Emperor is absent, and that, as yet, therefore, there can be no reply given. Until we have communicated with the French Government on the subject, and have determined with them upon the course which it may be necessary to pursue, I think it will be better not to lay that note upon your Lordships' table, and I shall confine myself to saying that it was impossible for any answer to be less satisfactory or less indicative of future improvement. But, my Lords, the questions of reform in the Pontifical States and the withdrawal of foreign troops from those States have also been pressed upon the consideration of the Powers principally interested, and, I must say, have been discussed in a manner and in a spirit very different from that in which the King of Naples has met the suggestions made to him. Although my noble and learned Friend may be incredulous, I believe the Austrian Government itself desires to withdraw its troops from the Pontifical States. I believe that the French Government also wishes to withdraw its troops, and this desire, so far from meeting with any opposition on the part of the Roman Government, is shared and approved by it. If, then, it be true—as I have every reason to think it is—that this desire is sincere on the part of the three Powers principally concerned, I cannot believe that much time will elapse before the withdrawal I have spoken of takes place, and before those precautions are taken which will be undoubtedly necessary after so protracted a foreign occupa-

tion in order to prevent the recurrence of disasters which we should all regret. These precautions being taken, however, I can see no reason why the Papal territory should not be evacuated with as little danger or as little mischief as took place in the case of Tuscany. The events of 1848 may have left painful reminiscences in Tuscany, and may have raised the same apprehensions on the part of the Government there; but it is to the credit of the Grand Duke of Tuscany that he determined to rely for support upon his people alone, and to request the withdrawal of the Austrian troops, and your Lordships are aware that the last Austrian soldier has long left the Tuscan territory, without the slightest disturbance having ensued. My Lords, I see no reason why this example should not be followed, in respect to all the other Italian States. But, my Lords, in point of fact, the experiment of confiding in the Italian people has never yet been tried; for those excellent measures which inaugurated the reign of the present Pope, and which were received with gratitude by his people, were, like everything else, swept away by the torrent of revolution in 1848. I say, then, that measures of reform have not had a fair trial. I hold in my hands—it is too long for me to read to your Lordships—the Pope's proclamation, dated in 1849, which preceded his return to Rome, and in which the foundation of a better judicial system was completely laid down. I believe, if the reforms there promised by the Pope were carried into execution, that everything which my noble and learned Friend could require for the better administration of justice there would be carried out. But I repeat that, as yet, the exhibition of confidence in the Italian people has never yet been attempted. Throughout the greater part of the Peninsula, an administration founded upon the policy of securing the affections by promoting the welfare of the people has never been tried. The policy hitherto adopted has always been one of fear, founded upon the expectation of immediate revolution, without analysing the causes of those fears or inquiring whether those apprehensions were or were not justified. Now, this is not a natural state of things. It is not natural on the part of nations to rebel against their Governments. A rebellion against a Government which did all in its power to secure its welfare was never a national feeling on the part of any people; and I am convinced, my Lords, that the Italians are not

inaccessible to kindness, that all they wish is to have their wrongs redressed, and that they are not difficult to govern if their rulers will attempt the work of reforming in good faith, in good earnest, and under a greater sense of responsibility than that which they have hitherto exhibited. My Lords, I do not know that any practical utility would ensue from my attempting to follow my noble and learned Friend throughout the speech he has made. He himself has pointed out in his speech some of the great difficulties which must attend the course to be taken by this Government. He has stated in plain terms the difficulty which we should have to encounter in acting alone. He has stated in plain terms why it is necessary that pressure, if applied at all, should come from France and England together; and I believe that until we can supply that joint pressure in all its force we shall not arrive at the results which we all desire. I will only say, in conclusion, that Her Majesty's Government have as much at heart the amelioration of the condition of the Italian people as either the Parliament or the people of this country can have, and that all the efforts they can make and all the influence they can bring to bear will be exerted in the endeavour to ameliorate that condition.

THE MARQUESS OF CLANRICARDE said, he trusted that no attempts would be made to excite insurrection in Italy, because it would lead to bloodshed, would probably end in defeat, and would then only make bad worse. But he could only say that the sooner a Government which continued to tyrannise over a people like that of the King of Naples, and to oppress them in a manner which had been to-night stigmatised as "infamous," the sooner such a Government was put an end to the better, not only for the people governed, but for the whole of Europe. When it was said that there must be no armed intervention in the affairs of Naples, what, in point of fact, kept the King of Naples on the throne? He, as he did not hold an official position, had no hesitation in giving utterance to the general belief upon that subject, and that was, that his position was maintained by the Austrian troops which had been allowed to overrun the Italian peninsula from the Alps to Ancona. It was well known that if any movement took place against the King, the Austrian forces would come in and suppress the movement. Well, then, it was said by

The Earl of Clarendon

the noble Earl that under no circumstances could resort be had to force in order to remedy a state of things which was injurious to Europe at large. [A gesture of dissent from the MARQUESS of LANSDOWNE.] Well, he was delighted that he had misapprehended the meaning of the noble Earl, but the noble Earl had talked of the inexpediency of the foreign armies being withdrawn from Italy until a better government was established. Why, if their departure were delayed until then, their stay would be indefinite, for they had gone into Italy to support and maintain a bad government, and not to support any amelioration of it. He, for one, anxious as he was that the powerful voice of the British Parliament might be of influence in bringing about a better state of things, could not press for the production of a correspondence which the noble Earl stated was not yet complete; but he thought that some information as to acts which had been committed in Parma, such as Italians being carried over the Austrian frontier and immured in Austrian dungeons, might well be laid before the country. With the exception of Sardinia, a country, the independence and integrity of which would always be dear to England, the whole of Italy was in a state of anarchy. It was occupied on the one hand by the brigands, and on the other by foreign troops, and such a state of things could not long be endured, for the condition of Italy might ultimately affect the balance of power in Europe. It was for the country to consider if it were not its duty to employ all its influence, and force even if necessary, to put an end to the occupation by foreign troops of a territory which ought to be independent—an occupation which was continued for the purpose of maintaining a tyranny not only injurious to the persons under its sway, but disgraceful to the present age.

THE MARQUESS OF LANSDOWNE said, he felt great doubts as to the practical utility of continuing the discussion, and felt the greatest reluctance in adding a single word to what had fallen from his noble Friend (the Earl of Clarendon), but he wished to refer to one statement which had been made by the noble Marquess. The noble Marquess had understood his noble Friend to say that under no circumstances could force be employed, and he had felt it his duty in the momentary absence of his noble Friend to intimate by a dissenting gesture that such had not

been the meaning of his noble Friend. What his noble Friend had stated was, that in the present state of affairs with regard to Italy—that in the present state of negotiations no recourse to force could be expedient; but he by no means laid down the principle that, with regard to that country any more than with regard to any other country, if the interests of Europe required it, no application should, under any circumstance, be had to force. On the contrary, his noble Friend had stated that there were circumstances under which a recourse to force might not only be necessary, but might be a matter of actual duty. They all were ready to admit that every other means of obtaining an object should be exhausted before recourse was had to force, and, above all, that every step should be taken, if interference by force should at any time be justifiable, to convince other Powers of the justice of the interference, so that the general peace of the world might not be disturbed. Let their Lordships also recollect that at that very moment, when they were talking about interference in the internal affairs of Naples, they were also protesting against the interference of other Powers in Italy. The present was not a state of circumstances in which it would be desirable to introduce any new complications, and he trusted that those which now existed would pass away, and that the result would be that interference would be got rid of altogether. He hoped that there existed on the part of the occupying Powers a *bond fide* and deliberate intention, in a greater or less degree, to get rid of interference, and the latest intelligence received by the Government with respect to Parma indicated an actual disposition to withdraw interference there the moment the system of assassination was put an end to. There were now fewer Austrian troops there, and the number would be gradually diminished. Concurring as a matter of feeling in the general sentiments expressed by the noble and learned Lord, he, nevertheless, thought it was equally the duty of Government to resist being led away by such a feeling, and to be firm in abstaining from any measure which might appear to embarrass the question. He only trusted that if ever interference should become necessary, it would be vigorously conducted, so that it might lead speedily to a satisfactory result. He had already said that he entertained some doubts as to the utility of the present dis-

cussion, and he therefore would not prolong it, not seeing the way to any immediate or useful effect being produced but by moral force. He was ready, however, to acknowledge that that moral force might be strengthened by the unanimous expression of feeling in that assembly, in which so much variety of opinion existed on other subjects, and that it would not be without its effect even in those fortresses of prejudice and arbitrary power which were undoubtedly the last places likely to be reached by it.

PAROCHIAL SCHOOLS (SCOTLAND) BILL.

House in Committee (according to Order).

Clauses 1 to 11 were *agreed to*.

Clause 12,

THE DUKE OF BUCCLEUCH moved, to strike out the clause.

* THE DUKE OF ARGYLL supported the clause, and expressed his surprise that the noble Duke had not stated the grounds upon which he proposed its rejection. The present Bill was in the nature of a compromise, agreed upon by the Scotch Members of various opinions in the other House, and it was the *minimum* that would be accepted by a large class of persons. The question, therefore, was, whether their Lordships would reject the present Bill with all its acknowledged advantages. The endowments of the Church of Scotland rested in that country, as in this, upon the principle of property, while the endowments of the parochial schools rested upon the principle of taxation. It was therefore necessary to come to Parliament when it was proposed to raise the income of schools and schoolmasters. No doubt there would be a few Dissenting masters elected under the Bill, but he believed the number would be very small; and if it should have the effect of demonstrating the feasibility of amalgamating the teaching of children of different sects under one master a great advantage would, in his opinion, be obtained. In that manner the Bill might possibly be the means of founding a more national system; but, at all events, it would be regarded for many years to come as a complete settlement of the question.

THE DUKE OF BUCCLEUCH admitted that the Bill was very different from the Bill of last Session, but even this measure was not supported by the class most interested in the subject. Although there was a majority for the third reading, the county Members were as two to one

against it. The borough Members voted for it, and a great deal was said about increased means of education, but if greater means of education were needed, surely the large towns ought not to be overlooked. Nothing would have been heard of the Bill had not the schoolmasters' salaries become so reduced by the alterations in the prices of corn and other produce as to justify some proposition to meet their case. The connexion of the parochial schools with the Established Church of Scotland had been most intimate ever since their first formation, and he could not help believing that the present Bill was intended to afford an opportunity for substituting Free Church schoolmasters for masters who were members of the Established Church. It could not truly be said that the teaching in the parochial schools at present was at all of a sectarian or exclusive character. Their doors were open to children of Roman Catholics, Episcopalians, and Dissenters of all kinds, and those children did attend without any complaints on the part of their parents. If anything could be said to be a truly national system, he thought the parochial school system of Scotland was one. The great majority of those who were taxed to support the schools were, he believed, in favour of the existing system, and he would remind their Lordships of the declaration signed about two years ago by 1,970 heritors of Scotland, who signed their approval of the present system, and desired the maintenance of the connexion of those schools with the Established Church; and he knew there was a most anxious desire on the part of the heritors generally to extend the system of education and to increase the salaries of the schoolmasters from their own resources. For himself, it was not until after the most anxious consideration and much communication with persons out of that House, that he had come to the conclusion of moving the rejection of the clause. He had been pressed to oppose the second reading, but, believing there was much in the measure which was worthy of consideration, he had abstained from taking that extreme course. He, however, felt bound to move the omission of the 12th clause.

LORD PANMURE denied that the Bill had originated in any desire to introduce members of the Free Church as masters of the parochial schools, and he believed that if the Bill were passed in its present shape there would not be a dozen Free

The Duke of Buccleuch

Church schoolmasters nominated throughout the whole country. If the clause were rejected, it would be almost tantamount to rejecting the Bill, for in all probability the other House would re-introduce the clause, and if their Lordships should persist in opposing it the Bill would be lost. All that was asked by the Bill was, that the schoolmaster should be appointed without being required to take any test. Whether they had a test or not from the persons keeping these schools, their Lordships might be sure that they would have none but God-fearing men in that situation.

THE EARL OF HADDINGTON supported the Amendment. He and his Friends were willing to accept the Bill if the noble Baron would consent to strike out the clause.

On Question, their Lordships *divided*:—
Content 50; Not Content 20: Majority 30.

List of the CONTENT.

DUKES.	Haddington	BARONS.
Buccleuch	Home	Abinger
Hamilton	Lucan	Boston
Montrose	Longford	Blantyre
Roxburgh	Leven and Melville	Bagot
MARQUESSSES.	Morton	Colville of Culross
Bath	Mansfield	Calthorpe
Lothian	Romney	Clarina
Westminster	Selkirk	Colchester
EARLS.	Stradbroke	Dynevor
Bradford	Verulam	Dunsandle
Bathurst		Denman
Derby	VISCOUNTS.	De Lisle
Desart	Combermere	Grantley
Donoughmore	Dungannon	Kinnaird
Delawarr	Melville	Redesdale
Galloway	St. Vincent	Ravenworth
Hardwicke	Strathallan	Southampton
Harewood		Wynford

List of the NOT CONTENT.

Lord Chancellor	Bessborough	Foley
DUKES.	Fortescue	Manners
Argyll	Harrowby	Overstone
Somerset	Somers	Panmure
MARQUESSSES.	VISCOUNT.	Rivers
Clanricarde	Torrington	Saye and Sele
Headford	BARONS.	Stanley of Alderley
EARLS.	Byron	Wrottesley.
Aberdeen	De Tabley	

Motion agreed to ; clause struck out.

Clause 13,

THE DUKE OF BUCCLEUCH proposed to strike out the first four lines of the clause, with the view of inserting other words relating to the qualification of schoolmasters.

After short discussion, Amendment *withdrawn*, and clause *agreed to*.

Clause 14 *struck out*; remaining clauses agreed to, with Amendments.

THE DUKE OF ARGYLL then intimated to the noble Duke opposite (the Duke of Buccleuch) that, in consequence of the Amendment which had been carried on a division, the Bill could no longer be considered the Bill of the Government.

THE DUKE OF BUCCLEUCH repudiated the charge of the Bill. The measure was brought in by the Government, and they must take care of it.

Report of the Amendments to be received on *Thursday* next.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Monday, July 14, 1856.

MINUTES.] PUBLIC BILLS.—1^o Evidence in Foreign Suits; Coast Guard Service; Lunatic Asylums (Superannuations) (Ireland).

2^o Income and Land Taxes; Stamp Duties; Racehorse Duty; Mercantile Law Amendment; General Board of Health Continuance; Lunatic Asylums Act Amendment; Charities.

3^o Partnership Amendment (No. 2); Episcopal and Capitular Estates Continuance; Customs (No. 2); Poor Law Amendment (Scotland); Indemnity; Nuisances Removal, &c. (Scotland) (No. 2); Formation, &c. of Parishes.

CHARTER OF THE COLLEGE OF PHYSICIANS—QUESTION.

MR. KINNAIRD asked the Secretary of State for the Home Department whether it was the intention of the Government to grant a new Charter of Incorporation to the Royal College of Physicians of London?

SIR G. GREY said, for some years past communications had taken place on the subject, and the details of a new charter had from time to time been under consideration, but postponed in consequence of the different proposals made to Parliament touching the medical profession. However, as a new charter could not be granted without an Act of Parliament, there was no present intention of granting one.

THE IRISH MILITIA—QUESTION.

LORD CLAUD HAMILTON asked the Under Secretary for War to state the exact meaning of the circular recently promulgated in Ireland, respecting the gradual disembodiment of the militia. Was it intended that men who left their regiments with permission before the time fixed for their disembodiment should not receive the gratuity of fourteen days' pay

which had been promised by the noble Lord at the head of the Government?

MR. PEELE said that, as the Irish militia was to be kept embodied longer than that of England and Scotland, and as some of the men desired to return home prior to the period fixed for its disembodiment, permission was given to them to leave, with a provision that they should receive the pay and bounty to which, up to that time, they were entitled. It never was intended by the circular of the Irish Government that they should be deprived of any of their rights in regard either to bounty or gratuity, but the settlement of their claims in the latter respect was to be made upon the disembodiment of the regiment, the intervening period being regarded as a sort of a furlough. As the militia was now about to be disembodied, however, instructions had been given that men who were permitted to go home should be settled with at once, and should receive all to which they were entitled in respect of gratuity and bounty. He agreed with the right hon. Baronet that, among these, those who had distinguished themselves at Sandhurst had as strong a claim to the consideration of the Government as the others; but he could not say that any of them had a claim to be kept in full pay in preference to those who were senior to them in the service. It would be impossible to retain a junior officer on full pay, and to place his senior on half-pay, even although the junior had distinguished himself at Sandhurst.

THE REDUCTION OF OFFICERS OF THE ARMY—QUESTION.

SIR J. GRAHAM observed, that in consequence of the peace considerable reductions would, no doubt, be made in the number of officers of minor grade in the army. Now, he wished to ask his hon. Friend the Under Secretary for War whether, considering that many commissions had been granted to students at Sandhurst as rewards for their early proficiency in the military art, their case would receive consideration at the hands of the Government in making the proposed reduction?

MR. PEELE apprehended that the only correct principle upon which such a reduction could be made was to reduce those who were the juniors in each grade. Of those juniors, some no doubt had obtained their commissions without purchase, as rewards for the proficiency they had displayed at Sandhurst; others, again, had

obtained them in consequence of their militia regiments having contributed a certain quota to the regular army; while a third class had secured them by purchase.

METROPOLITAN DRAINAGE—QUESTION.

MR. BUTLER wished to put a question to the right hon. Baronet the President of the Board of Public Works, with reference to the drainage of the metropolis. The Metropolitan Board of Works had sanctioned a plan by which the sewerage would have its outfall at Plumstead Marsh, eight miles from London. That Board could not carry out any plan of drainage without the previous sanction of the right hon. Baronet, and it appeared that he declined to assist them. The Act of Parliament, under which the Metropolitan Board of Works was constituted, provided that all plans were to be submitted to the Board of Public Works, and consequently a deputation from that Board had waited upon the right hon. Gentleman, and submitted the plans referred to for his consideration and approval. The right hon. Baronet, in reply, said that he would cause some experiments to be made before giving a definite answer. That had been done, and it appeared that there was a great difference of opinion between the right hon. Baronet and the Metropolitan Board. This was a most important question to the metropolis, and what he wished to know on the part of the ratepayers was, whether the experiments which had been made under the instructions of the right hon. Baronet had been made in consultation with the engineer of the Metropolitan Board of Works—whether any plans had been laid before him for preventing the discharge of the sewerage of the metropolis at an objectionable point of the Thames, and whether the right hon. Baronet had taken or would take such measures as would prevent so important a work as the drainage of the metropolis from standing over for another Session?

SIR B. HALL admitted that the questions were of great importance to the taxpayers of the metropolis, and he would state in a few words the course taken by the Metropolitan Board of Works, and the course he had felt it to be his duty to take under the circumstances. Under the Act of last Session the main sewerage of the metropolis was to be completed before the end of 1860, but before any plan could be proceeded with it must first be submitted to, and approved of by the First Commissioner of Works. Having been given to

Mr. Peel

understand that a plan was to be submitted to him, founded on certain data taken by the Commissioners of Sewers in 1851, and being extremely anxious that the work should proceed with as little delay on his part as possible, he communicated to the Metropolitan Board of Works that he thought it would be desirable that some person should be appointed to test the accuracy of the data on which the plan was founded. Accordingly, he communicated with his right hon. Friend the First Lord of the Admiralty, and requested him to name some person for the purpose who was thoroughly conversant with the Thames. His right hon. Friend named Captain Burstow, and that Gentleman was appointed to inquire into the matter. On the 3rd of June, he (Sir B. Hall) received a deputation from the Metropolitan Board of Works, and, having presented their plan, they desired that he would approve of it. He told them that the plan should have immediate consideration, but that, before pronouncing an opinion upon it, he thought it would be much better to wait until he was in possession of Captain Burstow's report. That report was made on the 30th, and on the 2nd of July he communicated to the President of the Metropolitan Board of Works that the plan proposed was at variance with the intentions of the Legislature, as expressed in the Act of last Session, inasmuch as it would keep the sewerage of the metropolis oscillating between Plumstead and the metropolis, and that therefore he could not sanction it. At the same time he conveyed to the Metropolitan Board of Works that if they presented any other plans to the Government which were in conformity with the Act of last Session, they should receive immediate consideration.

THE MASTER OF THE ROLLS AND THE ATTORNEY GENERAL FOR IRELAND—QUESTION.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD): Sir, I wish to put a question to the right hon. Gentleman the Member for the University of Dublin (Mr. Napier). The House is aware that the Master of the Rolls in Ireland made, from the judicial bench, a charge impugning the official conduct of the Attorney General for that country, and publicly stated that he had reduced his charge to writing and transmitted it to a Member of this House, who had undertaken that the charge should be openly and com-

pletely brought forward in Parliament. The House will also recollect that on Friday night the right hon. Gentleman (Mr. Napier), holding that document in his hand, used the following words in his statement to the House:—

“A Member of this House stands charged with being concerned in a gigantic fraud—he has escaped from justice; and it is essential that we should inquire by whose default that escape has arisen. I hope the Government will afford the earliest opportunity for the inquiry to take place. The public demands it—it must be conceded—the case must be thoroughly sifted—the honour of this House is concerned in it.”

The question I wish to put to the right hon. Gentleman is whether he is now prepared—by “now” I mean any day soon to arrive—to bring forward in his place in this House, and in such a shape as can be conveniently met, this charge against the Attorney General for Ireland? The right hon. Gentleman says that the honour of this House is concerned in this question. He had received a written statement from the Master of the Rolls; he had accepted a commission to bring the subject before the House; he endorsed the statement placed in his hands with his own weighty authority; and I now appeal to him to answer this question—whether he is prepared at the earliest possible opportunity—to-morrow, if that day is open to him—to bring forward the charge which he has so received and endorsed? I think I may also appeal to the House—and I have never known an appeal made to their candour and generosity in vain when the honour of a Member was concerned—to back me in the request that the charge may be brought forward in such a shape that I may be able to meet it, and that this House may be in a position to give its decision on the subject.

MR. NAPIER: The right hon. Gentleman has referred to a passage in my speech the other night, in which I said that I thought it concerned the honour of this House that an inquiry should take place with reference to the escape of James Sadleir. I thought so then, and I think so still. But will the House allow me very briefly to explain my connection with this question?—because I think an attempt has been made, both in and out of the House, to place me in the position of an accuser.

MR. ROEBUCK: I rise to order. I wish to know whether the right hon. Gentleman is in order in entering into this statement when there is no question be-

fore the House and no other hon. Gentleman will have the opportunity of answering him?

MR. SPEAKER: if the statement of the right hon. Gentleman would lead to debate he would not be in order; but I understood that the right hon. Gentleman was proceeding to make a statement with relation to himself personally.

MR. NAPIER: I was about to explain in what manner I became connected with this case. Hearing a statement made by the Attorney General for Ireland that the Master of the Rolls in Ireland had disregarded his oath as a Privy Councillor. [*Interruption.*] Several other hon. Members heard that statement.

SIR G. GREY: Such observations as the right hon. Gentleman has just made must lead to a debate. I also heard the speech of my right hon. Friend the Attorney General, and, as far as my memory goes, he made no such statement as the right hon. Gentleman has mentioned. I think, therefore, it is very irregular, after the rule laid down by the Speaker, that the right hon. Gentleman should proceed with his statement, which must necessarily lead to a debate.

MR. NAPIER: I really thought that the assertion of one hon. Member of this House was as good as the assertion of another. I stated what I had myself heard, and other hon. Members who were present also heard the observations of the right hon. Gentleman.

VISCOUNT PALMERSTON: The right hon. Member for the University of Dublin is now proceeding to discuss the practice and orders of the House. I take leave to differ from him in opinion. The practice of this House is, that what a Member states with respect to anything he has himself said is accepted as what he said; but, according to Parliamentary courtesy, it is not competent for an hon. Member to repeat an assertion after the denial, under such circumstances, of another hon. Gentleman.

MR. NAPIER: I have no intention of impeaching the accuracy of any one. One person may hear and another may not. I think I had a right to act upon my assumption of what I had heard; and on Saturday I wrote to the Master of the Rolls informing him of the statement I had heard made in this House on the previous night, and asking him what were the real facts of the case. I knew nothing about the matter, but as the Master of the

Rolls was a constituent of mine, as well as a long respected friend, I thought it right to communicate with him. I received his answer a day or two afterwards. It was not the long document to which I referred on Friday, but one that I received some days before. On the Motion for going into Committee on the Appropriation Bill on Thursday, I stated that I would enter into the question with regard to the oath of a Privy Councillor; but upon you, Sir, telling me I could not do so, I said that I would bring the subject before the House on the motion for adjournment on Friday. On Friday I received the document to which reference had been made, and I brought it down to the House. An appeal was made to the hon. Member for Antrim, and also to me, with regard to the postponement of questions relating to this matter, and while I was considering what course I should pursue I was called upon to proceed with my Motion. I only referred to the statement sent to me by the Master of the Rolls, in so far as I considered that it bore upon the charge that he had violated his oath as a Privy Councillor. With regard to the rest of the case, what I then said, and what I still say is, that I think this matter ought not to be made the subject of angry political debate in this House. It is requisite, however, that we should be acquainted with all the material circumstances under which James Sadleir has escaped from justice; and what I thought the unfair course was this—

MR. SPEAKER: The right hon. Member is now exceeding the bounds of order.

MR. NAPIER: I was endeavouring to explain this point. When I brought forward the subject it was suggested that I should prepare a Resolution embodying a charge against the Attorney General; but I could not do that, because I was not in possession of the statement or defence of the right hon. Gentleman. I was most willing that an inquiry should be instituted into the circumstances; and I think such an inquiry would be most satisfactorily conducted by a Committee appointed by the Committee of Selection, who might investigate the matter thoroughly. I had no commission from the Master of the Rolls to make any charge against the Attorney General for Ireland, and, so far as the Attorney General was concerned, I could not make a charge until I knew his case. The right hon. Baronet (Sir G. Grey) said, I think, that if no hon. Member would

Mr. Napier

embody his suspicions in a Resolution the Government would take measures to have the subject brought fully before the House. I shall be ready to take any course which the House may think it would be right to follow, holding as I do the opinion that this is a matter which it is our duty to investigate.

MR. J. D. FITZGERALD: As the right hon. Gentleman has declined to bring this matter in a substantive shape before the House, I shall adopt the only course that is open to a Member whose character is impeached, and therefore, without letting one day pass over, I shall to-morrow evening, on some formal Motion, make a statement to the House on the subject. And I have only to hope that hon. Gentlemen who have Motions on the paper for to-morrow, seeing this is a matter involving the personal honour of a Member of the House, will have the goodness to give way.

THE SCOTTISH EPISCOPAL CHURCH— QUESTION.

MR. HADFIELD asked the Secretary to the Treasury whether a sum of £1,200 annually or biennially had been granted from the Civil Contingencies Fund to the clergy of the Scottish Episcopal Church; whether such allowance was to be discontinued; and, if so, whether notice of the intended disallowance had been given to the parties concerned?

MR. WILSON said, hon. Members were, no doubt, aware that for many years past a sum of £1,200 had been granted every two years to the Episcopal Church in Scotland from the Civil Contingencies. Two years ago considerable objection was taken to that item, and it was contended that it ought, at all events, to be annually submitted to Parliament. The Government undertook to consider the matter, and, accordingly, when the grant was this year applied for, they came to the conclusion that they ought not to continue to pay it out of the Civil Contingencies Fund, and that if continued, it ought to be placed upon the Votes. They did not, however, feel justified in proposing it as an annual Vote in Parliament, and notice had been given to the parties that after this year the grant would be discontinued.

THE IRISH MILITIA—QUESTION.

MR. MAGUIRE drew attention to a statement in *The Limerick Chronicle*, to the effect that fifty-seven men of the

Limerick Artillery Militia, who had accepted the offer of an immediate discharge, had had their regimentals taken from them, and had been dismissed with only 6d. each; that they had arrived in Limerick almost naked; and that they said they had been obliged to sleep in the open air, not having money to pay for their lodgings. If that was true, he wished to know whether those men would have the sum paid to them to which they would have been entitled if they had stayed with their regiment?

MR. FREDERICK PEEL had already answered the question in the reply he had given to the noble Lord the Member for Tyrone. He was not aware of the circumstance alluded to by the hon. Member, but the men would receive all they would have been entitled to had they waited till their regiment was disbanded.

MEDICAL OFFICERS—QUESTION.

MAJOR REED asked whether it was true that a body of medical gentlemen who had volunteered their services at a time of great emergency, the assistant surgeons, were to be dismissed with a gratuity of only two months' pay, while the medical officers of the Turkish Contingent and the militia regiments were to receive twelve months' pay?

MR. FREDERICK PEEL said, that the class of officers referred to would receive what had been agreed upon when they entered the service.

MAJOR REED: But is it not true that they engaged to serve for two years, of which only eighteen months have expired?

MR. FREDERICK PEEL: They will be dealt with according to the terms of their agreement; and there will be no difficulty in settling with them.

ITALY—MOTION FOR ADDRESS.

LORD JOHN RUSSELL: Sir, I rise to bring forward the Motion of which I have given notice, for an Address "for copies or extracts of any recent communications which have taken place between Her Majesty's Government and the Governments of Austria, Rome, and the kingdom of the Two Sicilies, relating to the affairs of Italy." I submit this Motion without any wish to blame any part of the conduct of Her Majesty's Government, and without any wish to press the Motion, should my noble Friend at the head of the Government declare that there would be any inconvenience at the present moment

in granting the papers to which it refers. But the House will recollect that no discussion has taken place with respect to the affairs of Italy since we were invited to agree to an Address to Her Majesty on the subject of the Treaty of Peace which had been concluded at Paris; and the House will also recollect that, at the same time, the protocols were on the table, from which it appeared that the condition of Italy was one of the many important questions which engaged the attention of the Plenipotentiaries assembled in the Peace Conferences. Now, Sir, the immediate purpose of my Motion, is to ask what has taken place in consequence of the intimations then given, and if—as I am given to understand, and as public rumour asserts—no satisfactory answers have been received to the communications made by the Government of Her Majesty, and by that of the Emperor of the French, what are the intentions of our Ministers with regard to their future policy? For, Sir, I think I can show that, unless they be prepared to pursue the course upon which they then entered, and unless it be their intention to take some steps of serious import with respect to the affairs of Italy, it would be better for the people of that country, and better for the character of this House and the dignity of Her Majesty, that Ministers should at once declare that they meant no more than to make friendly representations, and that those friendly representations having remained without effect, it was not their intention to proceed to any further consideration of the subject. Such a declaration would be better than the only other course which I could conceive—the repetition of ineffectual remonstrances, the renewal of useless notes, the continual denial of that which is asked by the Power to whom the representations of our Government have been addressed. Sir, I beg leave, in the first place, to call the attention of the House to the nature of the statements which were made at Paris. There may be those who would say that, the war with Russia having been happily concluded—all the Powers who were represented at Paris having agreed upon the terms of the pacification—it would have been better not to raise any new question, but to be satisfied with the work which had been done. That, Sir, is not my complaint, nor do I complain at all upon this subject; but such was not the course which Her Majesty's Government and Her Majesty's Ally, the Emperor of the French,

thought it their duty to pursue. Count Walewski, who presided at the Conferences, deemed it necessary to bring under the consideration of the Plenipotentiaries, on the 8th of April, other questions deeply interesting to Europe—some of them relating to the general laws which govern the relations of nations, others affecting the particular States of Europe. He wished, as he said, to dispel “the clouds which are still seen looming on the political horizon before they become menacing.” I am sorry to say, with regard to those clouds which hang over Italy, that, so far from having been dispelled, they have been growing darker and darker, and that unless some more fortunate state of things succeeds, we shall soon see them bursting into a storm. Having made this preface, Count Walewski stated, that the occupation of Rome by France and of the Roman States by Austria, was an abnormal condition of things; that it was one to which he wished to see an end put by France; and that he was sure the Plenipotentiaries of Austria would participate in the same desire. He spoke likewise of the affairs of Naples, and regretted the misgovernment of that fair portion of Italy. Count Walewski was followed by Lord Clarendon, in whose declarations we must take a still deeper interest, as he was the representative of Her Majesty at the Conferences. He stated that it was most desirable that the foreign troops should be removed from Rome and the Roman States.

“For the well-being of the Pontifical States,” he added, “as also for the interests of the sovereign authority of the Pope, it would therefore, in his opinion, be advantageous to recommend the secularisation of the Government and the organisation of an administrative system in harmony with the spirit of the age, and having for its object the happiness of the people.”

He stated further—

“That for the last eight years Bologna has been in a state of siege, and that the rural districts are harassed by brigands. It may be hoped, he thinks, that by establishing in this part of the Roman States an administrative and judicial system, at once secular and distinct, and that by organising there a national armed force, security and confidence would rapidly be restored.”

With respect to the Neapolitan Government he spoke in severer terms:—

“He is of opinion that it must doubtless be admitted in principle that no Government has the right to interfere in the internal affairs of other States, but he considers there are cases in which the exception to this rule becomes equally a right and a duty. The Neapolitan Government seems to him to have conferred this right, and to have

imposed this duty upon Europe; and, as the Governments represented in the Congress are all equally desirous to support the monarchical principle and to repel revolution, it is a duty to lift up the voice against a system which keeps up revolutionary ferment among the masses, instead of seeking to moderate it.”

He added—and these are supposed to be the very words actually used by Lord Clarendon—

“We do not wish,” he says, “that peace should be disturbed, and there is no peace without justice; we ought, then, to make known to the King of Naples the wish of the Congress for the amelioration of his system of Government—a wish which cannot remain without effect—and require of him an amnesty in favour of the persons who have been condemned or who are imprisoned without trial for political offences.”

Now, these are very remarkable words, as showing the intentions which were entertained on the part of Her Majesty’s Government. They were followed by opinions given by other representatives. Count Buol, on the part of Austria, said something with regard to maritime law, and expressed a very earnest wish to curb the licence of the press in every country where the press is free; but with regard to Italy, and the occupation of certain of the Italian States by Austrian troops, he declined to say a word, declaring that he had no instructions to express any opinion upon the point. Count Cavour afterwards expressed very strongly the wish of his Government that the Austrian troops should be removed from the Legations, and he stated especially that the occupation of Parma and the city of Placentia by Austrian troops was menacing to the independence of Sardinia. He made also a distinction between the occupation by Austria of those countries and the occupation by France of Rome, stating that a separate and small corps occupying Rome at a distance from its own country was an object of much less apprehension and fear, and caused much less anxiety to the King of Sardinia, than the very large army which was maintained by Austria for the purpose of occupying a great portion of Italy and of overawing the whole territory. That there is that distinction between the occupation by Austria and the occupation by France I think cannot be denied. There are, however, other differences which may likewise be remarked on. The occupation of Rome by a small body of French soldiers may be represented as similar to an occupation which the British Government has frequently sanctioned—namely, an occupation solely for the protection of the

person of the Sovereign. It must likewise be admitted that there was some truth in what was stated in a former debate by the hon. Member for Dundalk (Mr. Bowyer)—that Rome was a place to which adventurers from all parts of Italy would be apt to resort, and that the Government of the Pope might be endangered, therefore, not by the spontaneous efforts of the people of Rome, but by the intrigues and conspiracies of strangers who might resort in any numbers to that city. But, Sir, whatever those distinctions may be, it is, I think, a matter of very great importance to consider whether this occupation by foreign troops of a part of Italy is to continue. In the first place, I imagine that there is no instance resembling it in the recent history of Europe. The occupation of a State by foreign troops for the purpose of restoring order is a very modern practice, and in every case it has been stated to be temporary—it has been represented as being instituted for the purpose of re-establishing the usual relations between the Sovereign and his subjects, and when that object has been accomplished the foreign troops have been withdrawn. I can recollect no instance of an occupation which has been prolonged for the length of time that the occupation of Rome and of the Legations has been continued. After the war of 1815—a war which raised all Europe to arms—when a million of troops were put in Motion in order to depose Napoleon from the throne of France, and when £150,000,000 was spent by this country alone in one year, it was considered sufficient, in the first place, that an occupation of France of five years should be stipulated for, and that term was afterwards reduced to three years, when France was governed by her own King, and it was found that he could rely upon the support of his own subjects. The occupation of Spain by France, when the Duc d'Angoulême marched there, was, I think, continued for barely three years. That occupation, however, provoked comment in this House. The very year after it took place, in 1824, I myself called the attention of the House to the subject, and Mr. Canning declared that he was convinced that no permanent occupation was intended. In the following year, at the end of the Session, Mr. Canning's attention was called to the subject by Lord Brougham, and Mr. Canning again declared that the occupation would not be long prolonged. But in this case we have an occupation which began in the year

1849, which has continued to the present moment; and yet we do not hear on any part that the troops could be withdrawn without as much danger and discontent now as, it is said, existed at the very commencement of that occupation. I am not going to argue to-night—because my question will chiefly be confined to the point of foreign occupation—whether the Government of Rome be a good Government or a bad one; but this I say, that if it be a good one there can be no need of foreign troops. If, on the contrary, it be a bad Government, and that bad Government have been continued for seven years without amendment, then, I ask, what prospect is there that in seven or fourteen years hence that Government will be improved? Sir, it is necessary in treating this subject to look at the declarations which were made by the two Powers who sent their troops to Rome and to the Legations in the year 1849. The House will then see how different were the declarations made at that time from those which are now made, and how little they justify the present occupation. Beginning with the French, I take, first, part of a despatch to M. De la Cour, who was then the French Minister at Vienna, and I find that M. Drouyn de Lhuys the Minister of Foreign Affairs, writing on the 17th of April, 1849, says—

“The Government of the Republic has resolved to send to Civita Vecchia a body of troops, commanded by General Oudinot. Our intention in deciding on this measure has been neither to impose on the Roman people a system of administration which their free will would have rejected, nor to constrain the Pope to adopt, when he shall be recalled to the exercise of his power, this or that system of government. We thought—we more than ever think—that by the force of events—by the effect of the natural disposition of men's minds—the system of administration which the revolution of last November has established at Rome is destined soon to fall, and that the Roman people will place themselves again under the authority of the Sovereign Pontiff, provided they are secured against the dangers of a reaction; but we, nevertheless, think, and in this respect, especially, our language has never varied, that that authority will not take deep root, and can only strengthen itself against fresh storms by the help of institutions which may prevent the return of old abuses, the reform of which Pius IX. had with such generous zeal begun.”

Then, the Declaration to the Pope, dated April 18th, says—

“The Pope must hasten to publish a manifesto, which, by guaranteeing to the people liberal institutions, in conformity with their wishes, as well as with the necessities of the times, shall cause the overthrow of all resistance.”

What we desire is, that the Pope, on returning to Rome, shall find himself in a position which, at once satisfactory for himself and for his people, shall secure Italy and Europe from new commotions, and shall not prejudice either the balance of power or the independence of the Italian States."

In transmitting those documents to the Court of St. James's, the French Minister says, under date the 19th of April—

"We doubt not that the British Government will duly appreciate a determination, the object of which is at once to maintain, as far as shall depend on us, the balance of power, to guarantee the independence of the Italian States, to secure to the Roman people a liberal and regular system of administration, and to preserve them from the dangers of a blind reaction, as well as from the frenzy of anarchy."

This took place on the 18th and 19th of April. On the 29th of April, Prince Schwarzenberg writes to Count Colloredo, in the following terms:—

"The Government of the Emperor has sent orders to Marshal Count Radetzky to send troops as well into Tuscany as into the Legations. In deciding upon this measure we have only complied with the demand which has been addressed to us to this effect on the part of the Grand Duke of Tuscany, as well as on the part of the Holy Father, the latter having at the same time applied for the armed intervention of France, Spain, and Naples. The object of our intervention is no other than the re-establishment of legitimate Governments and social order. Whenever this object shall have been attained—and thanks to the co-operation of the sound portion of the population we hope it will soon be so—our troops will retire."

That, be it observed, was seven years ago. Now, it is impossible, I think, to allow that the re-establishment of social order and the restoration of the Sovereign to his power can have occupied the whole of those seven years, unless there were something so vicious in the system of administration—something so much requiring the reforms which Lord Clarendon has pointed out—that the Sovereigns thought it necessary to maintain the troops in the foreign territory which they occupy. And here there is one observation which I cannot help making, because I think it tends to show that even that occupation for a time was hardly necessary. Among the other States which were led by the great convulsions of 1848 to dispute the authority of their Sovereign and to proclaim a different form of Government was Tuscany; but in Tuscany the new form of Government lasted only two months—during February and March. In April the people of Florence, mindful of a long course of mild govern-

Lord John Russell

ment, and recollecting the wise maxims and beneficent rule of Leopold, the grandfather of the present Grand Duke of Tuscany, rose against their republican rulers, and restored the monarchical Government of the Grand Duke. Every great town in Tuscany, except Leghorn, acted upon that example; men of the most liberal character—the men most trusted in Florence—were placed at the head of affairs, and the Grand Duke came back. If he had governed according to the constitution to which he himself had agreed, there seems to be no reason to believe that there would have been any outbreak or any disturbance of his Government. Unfortunately, however, no sooner had the commissaries of the Grand Duke taken possession of the helm of affairs at Florence than an Austrian general announced that his corps was ordered into Tuscany. That corps remained there until the beginning of last year; and since it marched out there has been no disturbance. I cannot but believe that if the rulers of Italy, not giving in at all to democratic ideas, nor going beyond the most moderate constitutional government, had governed their States with equity and justice, all pretence for this foreign occupation would have ceased, even if it had ever arisen. Be it observed that the excuse of its being necessary in order to support the Government, because the Government causes discontent and disaffection, gains strength from every instance of exercise of unjust and unlawful powers. Take the case of Bologna. The city of Bologna has been in a state of siege for the last eight years. If the Papal Government were to demand that the heads of 100 families in that city should be arrested and sent to a dungeon; there would beyond doubt arise great discontent and disaffection; and then, because there was discontent and disaffection, the foreign Government and the Papal Government would say that it was impossible to relieve this city from the presence of foreign troops, and that the occupation must be continued. It is an evil, therefore, which propagates itself. It is an evil which gains strength from the very indulgence of it. But are there no reasons even stronger than these general considerations of this state of things being abnormal, of there being no precedent for such an occupation, and of the discontent which it creates being so great—are there no other considerations which may have induced Her Majesty's Government, at the Conference

of Paria, to pronounce themselves in so decided a manner, which should still lead them to carry into effect the views which they there expressed? This House will well remember that at the time when we were carrying on the struggle in the Crimea—when the troops of Great Britain and France were besieging Sebastopol and were suffering every sort of privation, the Powers of Europe generally stood aloof from that struggle, which we had proclaimed—and I believe justly proclaimed—to be a struggle for European interests. At that time there was one State—a small State, but with an heroic people and an heroic Sovereign—which came forward to join us—to add its troops to ours, and to send to the Crimea a part of its small army in order to share in the dangers and glories of our armies—to stand side by side on the banks of the Tchernaya and before the walls of Sebastopol with those gallant men whose reception in this metropolis a few days ago roused every heart and filled every breast with emotions of gratitude and pride. That noble army, by the command of their Sovereign, with the full assent of their Chambers, became most willing associates of our hardships, and partook of our glory and of our honour. It would be too much to say, too much to suppose, that the Government of Sardinia would have added their forces to ours in that struggle from no other motive but regard to the general interests of Europe. Sardinia had suffered much in its contest with Austria, whose strength had overpowered her in a war of very recent date,—its finances had been greatly burdened, and its taxes had been enormously increased. A Sardinian Minister standing before the Parliament to ask them to enter into this war with Russia—a distant Power, whose advances against Turkey, however menacing to Europe in general, did not bear on the face of them any immediate peril to Sardinia—would have had great difficulty in obtaining an assent to his proposal had the Chambers thought of nothing but the dangers of Europe. There appeared, however, to be a general impression on the part of the Sardinian Government—and from all that I can hear a very justifiable impression—that if they joined us in that war their position in Italy—one of continual sacrifice and of very considerable danger—would be very much ameliorated by the acquisition of the friendship of two great Powers like France and England. I shall not be told, I hope—at

least, not by Her Majesty's Government—that there are no words in the treaty, no specific article, binding us to take into consideration the state of Italy. The Piedmontese believe, and I hope they believe rightly, that, although we may not be bound by the letter of the treaty, yet that its whole spirit would give them as much right to expect this consideration at our hands and at the hands of France as if the determination to consider the state of Italy had been specifically inserted in the treaty. It is, therefore, I think, so far as Sardinia is concerned, a question of honour with this country and with France, not to abandon the affairs of Italy. I believe such an abandonment would be fatal, if not in name, yet in reality, to the independence of Piedmont. The course of affairs would be probably this. The Austrian Government, if they were aware that this country and France did not mean to interfere—that we were content with the barren aid of protocols and notes—would increase their troops from one end of the frontier of Piedmont to the other, and would on every side have legions pressing on the independence of that country. Piedmont would be obliged—she is even now obliged—to keep up an army larger than her size and resources would naturally justify. Discontents would arise thereupon. There would be in the Piedmontese Parliament—perhaps in the very next Session—complaints of the Government which had imposed such burdens upon the country, and had sent its army to such a distance without bringing back anything but hostility on the part of Austria and indifference and disregard on the part of the Allies with whom they had fought. It would be said—and very likely successfully said—that, if this was to be the result, it would be better for Sardinia to diminish her army, to yield to any demands which Austria might make for the suppression of a free press and the limitation of the right of free speaking in the tribune; thus, to regain the good-will of Austria, and to sink to that wholly dependent condition which existed for some twenty-five years after the peace of 1815. If such were the arguments used, and if that wise statesman and sincere patriot, Count Cavour, should be compelled to yield to the storm, and be driven from power because England and France had failed in their implied engagements—if he were to be driven from office amid the despair of Italy and the reproaches of those who

looked to us and to France for assistance—should we not feel humiliated by the reflection that we had asked for the assistance of Sardinia in the late struggle, that we had ever appeared at the Conferences of Paris to say a word on behalf of the Italians? There are other considerations besides this which immediately affect our honour and our justice. I cannot but think that if France and England, holding the position they do in Europe, should go to a Conference of European Powers, and declare that the Roman States are misgoverned, and point out a way in which that misgovernment can be remedied—that if they should denounce the King of the Two Sicilies as a monarch whose rule was so intolerable that even that general international law which forbids others to interfere in the internal affairs of foreign nations, must be suspended against him—that we should do these things, and yet in the end should allow the Austrian Government to treat us with haughty disdain, the Pope with positive denial, and the King of Naples with taunts and defiance—I say two such great Powers would be humbled to the dust by receiving such answers as these. I am now putting the case that it was wise and right to go to the Conference of Paris with these statements—that it was wise to make this treaty with the King of Sardinia—I was myself an earnest advocate for that treaty. Say, if the House chooses to say, that the whole of this policy has been wrong—that Her Majesty's Government, and those who support such a policy, have advised a rash and undue interference in the affairs of Italy—that I can well understand. Go back, then, in your policy, and assume a totally different attitude. But what I cannot understand is, that you should maintain the same opinions, that you should retain the same sentiments, and yet that you should not proceed to execute that which you said it was necessary to do for the security of Europe and the well-being of Italy. Sir, these are questions, and questions of great difficulty, which would arise in the pursuit of the policy upon which we have set out; but recollect that the Government of this country but a short time ago—a Government to which I had the honour to belong—the very pacific Government of Lord Aberdeen—sent a fleet to Constantinople, and ordered it to take the command of the Black Sea—a sea at that time very much unknown to us—and also despatched an expedition to attack a

Lord John Russell

fortress upon its shores. Is any such effort necessary to accomplish our present object? Nothing of the sort. I cannot for a moment think that if Great Britain and France declared that they could no longer permit the Austrian occupation of the Italian States, that occupation would be continued. I do not believe that such a declaration would lead to the slightest danger of war. Italy is accessible at all points. Great Britain and France, with the goodwill and hearty concurrence of the whole Italian people, would surely be more than a match for any force that the Emperor of Austria could bring against them. Well, then, you may depend upon it that the Austrian Government would yield at once to such a determination. And, be it observed, that what I am now speaking of is not an interference in the internal concerns of foreign nations. I will say a few words upon that question hereafter. What I am now speaking of is a declaration to Austria that she shall no longer interfere. I do not propose that there should, with regard to the Roman States, be any authoritative interference for the secularisation of the Government, or for effecting any of those improvements of which Lord Clarendon spoke. I am quite satisfied to leave that question to the Roman people. Let the people of the Roman States be freed from this incubus of foreign occupation, and let them settle with their rulers what shall in future be the form of Government. If they, as Milton says that "nations grown corrupt" are apt to do, prefer "bondage with ease to strenuous liberty," let them have their preference. Far be it from us to order them to be free, or to command them to enjoy any of the liberties of which we are ourselves so proud. But do not let a foreign force interfere. Let not a man who prefers not to be sent to a dungeon because he wears a particular sort of hat, or has been suspected by some worthless and villanous spy, who gains his livelihood by the betrayal of the upright and good—let not a man who has such a preference, and feels that his fellow-countrymen likewise entertain it, be met by foreign troops, and forced to submit to the misgovernment which he detests. With regard to Naples the case is different. Lord Clarendon has stated that there the circumstances are so grave that even internal interference may be justified. What may be the intentions of the Government I know not, nor is it for me to say whether the case is really so

strong as to justify this interference. If it is, I should much doubt the efficiency of any new laws or the permanency of any constitution granted under such pressure. If it merely means that those virtuous and good men who have been pining in dungeons for years, because they had the audacity to devise for their country something better than its former misgovernment, should be released, I can well understand that some interference may be justified. What I want to lay stress upon now is, that we ought not to allow this foreign occupation to be continued. There is, however, one part of this subject of which we must not lose sight, because it somewhat concerns the character of this country. In the year 1812, we were the patrons of every people in Europe who rose against what was then the foreign occupation of the French army. That army, extending from Florence to Hamburg, excited everywhere a strong feeling of repugnance to foreign domination and a strong wish for independence. We favoured that wish. In Sicily especially—Sicily, which it was the last object and concern of the public life of Mr. Fox to preserve for the House of Bourbon—in Sicily we aided to establish a free constitution, and, by means of that constitution, as Lord William Bentinck stated in this House, everything gained a new aspect; the country which had been miserably weak became strong, troops and militia were forthcoming, and the commander in chief in Sicily was enabled to send 6,000 British troops to Spain, to aid in the contest there. The people enjoyed an unwonted degree of prosperity and liberty—liberty unwonted in modern times, but not discordant with their ancient constitution. In 1814, the British troops left Sicily; and in that or the following year it was stated, on the part of the British Government, that although we did not pretend to say that there should be no changes in the constitution, yet that the Prince Regent would think himself justified in interfering if either those persons who had appealed to British protection during our stay in the island should be molested, or the prosperity and liberty of Sicily should be materially altered for the worse. The Sicilian Minister, in vaguer terms, leaving out especially the word "liberty," accepted that declaration, and engaged the honour of his Government to its performance. In 1815, the General Treaty of Peace was concluded at Vienna; but on the 12th or 18th of June, in the same

year, the King of the Two Sicilies signed a treaty with the Emperor of Austria, by which he engaged that no government should be permitted in Naples or Sicily which was not in conformity with that of the Austrian empire. The Sicilians were of course treated with bad faith. They complained that England had deserted them; and, without entering into the policy of those days, it is sufficient to say that Lord Castlereagh was disposed, as was declared by some one to be the policy of the time, to trust rather to sovereigns with large armies at their command than to popular efforts or popular sympathies. A few years ago another effort was made by Sicily. At the request of the King, Lord Minto went over from Naples with terms which, after long discussion, it was thought might at once assure the privileges of the Sicilians and maintain the union between Naples and Sicily. But, before he could make his communication to the leaders of the Sicilian Parliament, the Neapolitan Government, under the direction of the King, had circulated through the island intelligence of these terms, and had provoked so much opposition and resistance that it was found impossible to obtain assent to them. Another effort was made, having for its object to raise the Duke of Genoa to the throne of Sicily. We, for our parts, should have been happy if that effort had succeeded; but we did not think ourselves entitled to interfere between the King of Naples and his Sicilian subjects, and, in a manner, to divide the kingdom of Sicily from that of Naples. It must be admitted that in that instance, and likewise in another part of Italy, our conduct has to a certain degree excited the suspicion and the anger of the Italians. Lord William Bentinck—than whom no juster or more sincere man ever stood forth, either in command of an army or as a Member of this House—when he went to the coast of Italy, promised aid to the people of Lombardy. That promise likewise was not carried into effect. Some of these are certainly old reminiscences—some of them are connected with the period when, the whole of Europe being convulsed, it was desirable to obtain, if possible, the blessings of order and tranquillity even at a great sacrifice. But at the present time, after standing forward at the Conferences of Paris—after making large professions and exciting great expectations—after inducing the Italians to think that a great effort was about to be made in their favour, if we

confine ourselves to notes and paper protestations, I am afraid that we shall altogether lose the confidence of the inhabitants of that peninsula; that 25,000,000 of people, who well deserve good government, will have occasion to rue the day when Great Britain ever interfered in their affairs. Seeing, then, that, while Austria is taking fresh precautions and sending an increased military force into Italy, the Roman Government is more severe than ever in its system of repression and suspicion, I think it incumbent upon us, in concert with the Emperor of the French, to consider what further we can do to remove these evils. Upon that which does not properly belong to me, but devolves more legitimately on the Executive, I wish to offer a few words. I may be asked, "How is it possible to carry your views into effect? True, we have made these declarations, but how can we act in accordance with them?" I say, in the first place, that you are bound at whatever risk to support the King of Sardinia. I do not think you can possibly allow his independence to be assailed or his means of free government to be taken away from him without declaring that we are ready at any sacrifice to uphold the cause of one who has so nobly stood by us. In the next place, there is something more that we can do. Among some of the Sovereigns of Italy, there is a growing feeling that dependence on foreign bayonets is not a proper position for a ruler—that a King who enjoys the love of his people stands higher, is more respected in the world, and more respects himself, than one who sends for foreign generals and has his subjects brought before a court-martial and shot for disobedience of the orders of those foreign generals. Wherever we find this feeling springing up we ought, I think, to encourage it. There is another point on which I dare say my hon. Friend the Member for Perth (Mr. Kinnaird) is better informed than I am. It is stated that that spirit of persecution which revolted the people of England in the case of the Madiai, and also prompted the King of Prussia, out of regard to the reformed faith, to interfere with the Grand Duke of Tuscany, has lately received a check; and that, in the last instance in which an attempt was made to convict a person for endeavouring to proselytize from the Roman Catholic religion to the Protestant the prosecution has failed, and the verdict of the tribunal before which it was brought will not be

Lord John Russell

interfered with by the Government. If this be so, it is a very welcome symptom not only of approbation of liberty of conscience, but of a rising spirit of independence. We are further told that the haughty and insolent manner in which the Austrian troops have treated the independent Sovereign of Parma has excited resistance and disgust in that State. I trust that this may be the case; and wherever it is so, I think the influence of the British Government should be exercised to confirm those growing feelings and to nourish this rising spirit of independence. I remember, Sir—it is now very long ago—having the honour of an interview in the Isle of Elba with the first Napoleon. The Emperor talked much of the States of Italy, and agreed in the observation which I had made that there was no union among them, and no likelihood of any effectual resistance by them to their oppressors; but when I asked him why Austria was so unpopular in Italy he replied that it was because she governed, not with the sword (that was a reflection which that great man was not likely to make), but that she had no other means of governing except by the "stick." I believe, Sir, that that is the secret of the whole disfavour with which Austria is viewed in Italy. Taking this to be the fact, I say that you have a means ready to your hands for rousing the feelings of the Italian people, and that if we and the Emperor of the French once declare that we shall not allow the States of the Pope to be occupied by Austria beyond a certain fixed date—if we fix a certain date, beyond which we will not allow that occupation to be continued—the attainment of their evacuation will be a matter of comparative ease. One thing, indeed, I have heard, and it is a mere whisper—a surmise—namely, that the Government of the Emperor of the French, which agreed with us so much at Paris that its Minister for Foreign Affairs took the initiative, is not prepared at present to protest any further against the foreign occupation of Italy. I, for one, Sir, cannot believe—I think it is impossible to believe—that a Sovereign who was so faithful an ally to this country—who during the late war proved himself so ready to aid us, and to act in every way as became a Monarch true to his engagements, would ever lead the King of Sardinia to rely on his support, and then allow that hope to be disappointed. The matter to which I allude may be one of some time—it may require the adapta-

tion of various means to the end in view. It is for Her Majesty's Government to carry on communications for the attainment of this end. They have the time before them in which to do so; but this I will say—I cannot but think that, if having done and having proclaimed so much we are contented with the refusal of all that we propose—if we sit down quietly without obtaining any improvement in the condition of Italy, it will be to us a ground of everlasting reproach. I trust, therefore, that in the course of the autumn, or at least before the next meeting of Parliament, the object which Lord Clarendon had in view at Paris will be effected. I know that no greater object can be aimed at by a statesman. When Lord Byron was in Italy in 1821, and had become enthusiastic in her cause, he said that the cause of Italian freedom was “the very poetry of politics.” I believe it is “the poetry of politics;” but I believe, at the same time, that it is also a practical question. I am sure it is one on which our character and credit depend. I express no want of confidence in Her Majesty's Ministers, but I do think that, before Parliament separates, this House ought to have from the Government some declaration of the one kind or the other—either that they are not prepared to carry any further their interference in the affairs of Italy, or that, using whatever means they deem best, adopting whatever measures they think most adequate to the occasion—they do mean to attain this end—the independence of the Italian States.

Motion made, and Question—

“That an humble Address be presented to Her Majesty, that She will be graciously pleased to give directions that there be laid before this House, Copies or Extracts of any recent Communications which have taken place between Her Majesty's Government and the Governments of Austria, Rome, and the Kingdom of the Two Sicilies, relating to the affairs of Italy.”

VISCOUNT PALMERSTON: Sir, I think the House will not be surprised that my noble Friend, who has taken so great an interest in so many important transactions of history, should have deemed it his duty, before the present Session closes, to draw the attention of this House, and, through this House, the attention of the country to the interesting matters which he has just brought under our consideration. It is impossible to overstate the importance of these subjects in the present condition of the world. We have just seen the termination of perhaps one of the greatest, although certainly one of the shortest, wars

in which this country was ever engaged—a war which involved interests of the highest magnitude, and which, if had continued, might, under certain circumstances, have extended itself over a large portion of the surface of Europe. That contest has happily been concluded, and the questions which provoked it and threatened in their consequences to bring great calamities upon the world have been settled in a manner, which, I trust, will ward off for a long time to come those dangers which Europe recently had cause to apprehend. When the representatives of the great Powers assembled in Conference at Paris to discuss and determine the conditions of peace, it was natural they should not separate without directing their attention to other matters of European interests besides those which were the immediate objects of consideration. My noble Friend has, I think, assigned ample reasons why that course ought to have been pursued. It would indeed have been a reproach to the Plenipotentiaries of the great Powers if, when they had met to accomplish the great purpose of a European pacification, they had shut their eyes to circumstances which might bring about further complications as menacing, perhaps, to the tranquillity of Europe as those to which it had been their gratifying duty to put an end. Well, Sir, the affairs of Italy naturally attracted attention. My noble Friend has well remarked that the occupation of independent States by foreign troops is a departure from the ordinary and proper condition of things, only to be justified by immediate and pressing necessity, which ought not to be continued beyond the existence of that necessity, and for the unnecessary continuance of which, without sufficient reason, those under whose authority such occupation takes place incur serious responsibility. The occupation, therefore, of the Roman States by foreign troops naturally attracted the attention of the representatives at the Congress, and no member of that Congress was better fitted to draw the attention of his colleagues, and, through them, the attention of the Governments of Europe, to the subject than the representative of the Emperor of the French, who was partly concerned in the continuance of that occupation. Most honourable it was, I think, to the Emperor of the French, that he should have taken that opportunity, through his representative in the Congress, of expressing a desire that the occupation should

cease, providing that the assent of Austria should be obtained to the cessation of such a state of things. My noble Friend has stated that this discussion did not lead to a satisfactory result. The representative of Austria could hold out no expectation that his Government would take any step in that direction; he professed himself to be without instructions on the subject. My noble Friend wishes to know, with regard to that matter, as well as to others, what are the intentions of Her Majesty's Government?—whether we mean to let the subject drop altogether, or, if we think it our duty to continue to urge it, what steps it is our intention to take? I think that my noble Friend and the House must feel that when Her Majesty's Government, in conjunction with the Government of the Emperor of the French, have made themselves parties to a public and official representation, with a view of inducing the cessation of that abnormal occupation, it is not a momentary repulse, and it is not the casual disappointment of an expectation that reason would prevail over prejudice, that will induce the Governments of two great countries to desist from endeavouring to accomplish a result which they think right in principle, sound in policy, and conducive to the interests of Europe. I am sure my noble Friend, above all men, must feel that it would be unbecoming for me to state what steps Her Majesty's Government may deem it right to take, but I have no hesitation in saying that we think the object one of great and general importance, and that we do not abandon the hope that that object may ultimately be accomplished. It is said, on the one hand, that if the occupation were to cease, revolts, revolutions, and scenes of the most disastrous descriptions would occur in the Roman States. It is, of course, impossible, as it would be unbecoming, for those who are mere spectators at a distance to pronounce an opinion on the value of such assertions; but, reasoning upon general principles, I think it is impossible to believe that these anticipations of evil are not exaggerated. One cannot bring one's self to think that a Government like that of the Pope—at the head of which is a man of whose benevolent intentions and enlightened ideas the past has given us sufficient proof—will not be able so to conduct the administration of affairs as to remove the causes of violent discontent which alone produce convulsions in nations.

Viscount Palmerston

I will not go back to the advice which was given to the Pope in 1831 by the representatives unanimously speaking on behalf of the five great Powers of Europe; but I will observe that no later than 1849, when the Pope returned to his dominions, he issued what is technically called a *motu proprio*, in which he announced his intention of establishing institutions—not indeed on the system of representative government—but still, institutions based upon popular election; and I believe if that scheme had been carried into full effect it would have afforded such contentment to his subjects that the interference of foreign troops would have been rendered wholly unnecessary. That *motu proprio* professed to establish municipal councils founded upon election, with a franchise of the most extended description. These municipal councils were to elect members to form provincial councils; and those provincial councils again were to elect members to form what was called a Council of State in Rome. There was also to be a Council of Finance in the capital, to regulate and advise upon the financial arrangements of the State. I cannot help thinking that if the Pope were advised by those whose counsels he follows to put in force even the limited arrangements of that *motu proprio* such security would be afforded for the tranquillity of his dominions that the continuance of any foreign force in his dominions would no longer be necessary; but upon that point I can only say what I have already stated to my noble Friend, that Her Majesty's Government think that the cessation of that foreign occupation, and the prevention of any future foreign occupation in Italy by troops of other States are objects of great European interest, and which it becomes the Government of this country and of France, if possible, to accomplish. With regard to the affairs of Naples, I am sorry to say that the friendly representations which have been made by the Government of France and of this country to the King of Naples, as to the condition of his kingdom, have not hitherto been attended with any successful result. My noble Friend has expressed an opinion that, although it is a departure from general principles for foreign Governments to interfere, even by tendering advice, with respect to the internal affairs of other States, there are in the condition of the kingdom of Naples sufficient grounds for a departure from the

general rule. The grounds upon which that exception rests must be evident, I think, to the mind of any one who casts a glance over the map of Europe, and who views retrospectively the affairs of Europe. Why, Sir, if the severity and the injustice of the administration of the kingdom of Naples led to such outbreaks and resistances as have occurred elsewhere under similar circumstances, and if the King of Naples found himself unable by means of his own troops to restore his authority, it is obvious that he would apply to Austria for assistance. Would the rest of Europe stand passive spectators of such additional interference on the part of Austria? If they were not to do so, would not the peace of Europe be endangered by the complications and difficulties which such a state of things must create, and which must seriously affect the interests of other continental countries? Is not that consideration, therefore, a justification of friendly endeavours on the part of the English and French Governments to induce the King of Naples to prevent, by his own means, the occurrence of events which would to so great a degree complicate and embarrass the interests of other European Powers? I have said, that hitherto no success has attended the friendly representations which have been made to the King of Naples. The King of Naples, probably, or those who advise him—the Government of Naples—may have looked with jealousy and suspicion upon advice tendered by England and France alone; but we do not despair that advice of the same kind may reach the Neapolitan Government from other quarters, whence they will receive it, perhaps, with more confidence. There is, I think, no reason to despair, that if such additional representations were to reach the Neapolitan Government, they might produce an effect which the counsels of England and of France have hitherto failed in accomplishing. One of the misfortunes arising from the language of calumny and vituperation which has been applied to England and France—and particularly to England, which has been denounced as the protector of revolutionists, as the fermenter of disorder, as a Power which desires to overturn and subvert institutions wherever its influence extends—I say it has been one of the misfortunes arising out of these calumnies that they have tended to prevent the good, sound, and useful advice which the British Government may, from time to time, think

itself authorised to tender to foreign Governments from producing the fruit which might otherwise have been anticipated. I say, therefore, that I do not despair that the evils which still exist in the kingdom of the Two Sicilies may, by the interference of those in whom the King of Naples and his councillors repose more confidence than they place in the Governments of England and France, produce better results than we have hitherto been able to accomplish. With regard to Naples, then, as with regard to Rome, we do not despair. We see a state of things existing which we think threatening to the interests of Europe, but I do not mean to say that the British Government have given up all hopes that it may succeed in producing an improvement in that condition; but, with regard to that point, as to others, my noble Friend must excuse me if I do not follow him into details. On one point I have no hesitation in giving a full assent to the views of my noble Friend. He has said that the fact of the King of Sardinia having so nobly and gallantly associated himself with France and England in the war which has just been brought to a close has given him a right, a moral right, to the support and protection of those countries should any danger assail him, not brought about by provocation on his own part. I think he is too well advised to give such provocation; and, therefore, if ever he should be in circumstances of danger, I agree with my noble Friend, that the Governments of England and France would be bound by every tie of honour, as representing these two great nations, to assist him to the utmost of their power. I am satisfied, however, that the knowledge of such ties existing between Sardinia and England and France will of itself be sufficient to prevent Sardinia, if not from being threatened—and I believe it will never be more than threatened—at least from being assailed with such dangers as will render it necessary for us to interpose in order to repel them. My noble Friend has said, that it would be desirable to encourage those Sovereigns of Italy whose territories are either free, like those of the Grand Duke of Tuscany, or occupied, like those of Parma, and who wish either to retain or regain their independence; and that it would be the duty of settled Governments, like those of England and France, who object in general to these occupations—to encourage those Sovereigns in maintaining their independence. It is true, Italy

is removed by distance from this country ; but it is also true—and the history of Europe is full of examples of the fact—that it is not possible for great commotions to take place in Italy, and opposing armies to meet there without the evil spreading far beyond the limits of that peninsula and embroiling other nations in the conflict. Therefore, I agree with my noble Friend in thinking that every wise and enlightened Government of this country would think that the affairs of Italy required its constant and urgent attention, and that the interests of England, as connected with the general interests of Europe, must be best consulted by securing to the several States that independence within their own limits, which is the best security for the good understanding of their respective Governments and the people, and for establishing that state of things which is best calculated to make those fertile countries prosperous as they ought to be, and to prevent them becoming the source of danger and calamity to Europe. My noble Friend has moved for the production of papers, but he has stated that he was willing to accept the assurance of the Government, that in the present state of things the production of those papers would not be conducive to the interests of the public service. I am bound in duty, then, to tell him that their production in the present state of the correspondence would not be conducive to the interests he has so much at heart, and that I cannot therefore assent to his Motion. The papers he asks for relate to a correspondence still going on, and their publication at the present moment might prevent the attainment of the end for which it has been commenced. I can only say that, concurring with my noble Friend in the general views he has so well developed, but reserving to the Government the discretion of pursuing their functions in the manner which they think best calculated to accomplish the purpose he aims at, without any unnecessary departure from those general principles that ought to regulate the intercourse of nations, I hope my noble Friend will be satisfied with the statement I have made, and not press for the production of these papers. And let my noble Friend rest assured that Her Majesty's Government are occupied steadily in promoting the objects he has in view, and that we concur with him in the propriety of making every effort to secure to the Governments of Italy that free action in their internal affairs which is

best calculated to promote the prosperity of Italy, and which alone can secure that country from becoming a source of danger to the rest of Europe.

MR. DISRAELI: The noble Lord the Member for London has this evening called our attention to a subject of the greatest interest and importance. Of Italy it may be said that it must either be considered in a theoretical or practical point of view. No doubt there is no Gentleman in this House who does not feel the greatest sympathy with Italy and the fortunes of the Italians. When we remember how much we owe to that country, that in ancient times it gave us our laws, and in modern times our arts, it is totally impossible that its condition can ever be brought before us without exciting a lively interest in the House of Commons. But that is "the poetry of politics," as the noble Lord has reminded us, and I cannot think, notwithstanding the high authority he quoted on the subject of poetry, that the House to-night will feel, on a discussion that may involve immediate consequences of the utmost importance to the people of this country, that we should indulge merely in "the poetry of politics" on the one hand, or on the other be satisfied with those vague expressions which we have just heard from the lips of the First Minister. The noble Lord the Member for the City of London compensated us for dwelling on the poetry of the question, when he, in a very business-like manner, becoming the importance of the subject, reminded us of what occurred at the recent Conference at Paris, and of the important State papers to which, at that Conference, the Plenipotentiary of England had affixed his signature. The noble Lord introduced the question to us with details which the House clearly understood, and made us feel that, by the conduct of the English Minister at Paris, this country had entered into engagements which, not only according to the version and interpretation of the noble Lord, but according to the feeling of every Gentleman present, have placed this country in a position of grave responsibility. I cannot understand from the observations of the Minister who has just sat down, that Her Majesty's Ministers have done, or intend to do, anything which could have justified those protocols or the tone which the Plenipotentiary of this country assumed on the occasion when the affairs of Italy were discussed at the Congress of Paris. If all that Her Majesty's Minis-

ters have done or intend to do are merely these routine representations to which the noble Lord has just referred, and which he has promised, it does not appear to me that, at a Conference called to settle questions of a very different character, it was necessary, or expedient, or politic, to introduce the question of Italy as it was introduced at the Congress of Paris—to have drawn up and signed these protocols—if all that has been done, or is to be done, is, in fact, merely that diplomatic action which, as I humbly conceive, might have taken place without so much ceremony, and without having, as the noble Lord the Member for London said, roused the passions of the population of Italy. I want to know what is the deduction we are to draw from the inquiries of one Member of this House, who has been First Minister of the Crown, and from the answer of another Member of this House who is the First Minister now, on a question that is indeed truly described as one interesting and important from its peculiar and essential character, but one in the treatment of which, let me tell the House, are involved urgent, perhaps immediate, consequences to the people of this country—to the state of their industry and the state of their commerce, the questions of peace and war, and all the most vital subjects that can engage the attention of this House or the consideration of statesmen. When I listened to the first observations of the noble Lord, I thought he was about to counsel action of the most decisive and energetic character. The noble Lord said it was the duty of this country not to abandon the cause of Italy. He laid down that position with the utmost precision. Now, I could hardly suppose that the noble Lord, in declaring that it was the duty of this country not to abandon the cause of Italy, could, after all that has occurred on the subject, have confined his meaning merely to the communication of a note from a Minister to the Court of Naples or of Turin. The noble Lord, indeed, stated there were circumstances which might demand the most decided conduct on the part of this country. He said, if Austria, for example, required the suppression of the liberty of the press on the part of Piedmont, then there is no step which he should not be prepared to take on such an occasion. But, strange to say, the only formal proposition that I find in the papers upon which the noble Lord founded all his observations—the only formal proposition

for repressing the liberty of the press does not emanate from the Austrian plenipotentiary, but from the representative of our great Ally the Emperor of the French, by whose aid, and whose aid alone, these magnificent visions of Italian regeneration are to be realised. Now, Sir, if I look to the papers to which the noble Lord has referred, I find language of a very precise character upon the subject of interference. The House will recollect that when the protocols of the Conferences at Paris were first laid on the table, it appeared that upon the 8th of April it was Count Walewski, the French Secretary of State for Foreign Affairs, who, when the treaty had been signed for the settlement of the Eastern question, and when all those points were arranged which had given rise to the Conferences, introduced in a formal manner to the consideration of the Plenipotentiaries questions which had no immediate reference to the principal cause of their assembling. The House will recollect that, so far as the protocols would show us when they were laid on our table, the responsibility of that introduction, which many thought not very adroit, rested with the French Minister. But there were subsequent papers placed on the table of the House which threw considerable light upon this point, and proved that it was not Count Walewski who really was the cause of the subject being brought forward. It was upon the 8th of April that Count Walewski, after the settlement of the main question, said—

“It was desirable that the Plenipotentiaries, before they separated, should interchange their ideas on different subjects which required to be settled”—I beg the House will mark the words—they are important—and which it might be advantageous to take up in order to prevent fresh complications.”

Then Count Walewski went on with that remarkable exposition—fresh, I am sure, in the memory of every Gentleman who hears me—in which he showed that Greece was in what is called an “abnormal state,” that the Roman Legations were also in an “abnormal” condition, and that the affairs of Naples were, not in an “abnormal,” but in an “exceptional” state. Now, when those papers were laid on the table, many Gentlemen, while wondering at the indiscretion committed by Count Walewski, must have felt that a Minister of experience and high character could never have introduced at a Conference for the settlement of terms of peace with Russia ques-

tions of this vast importance, without having previously communicated with his Colleagues, and felt the pulse of the representatives of the different Courts. That was the conclusion which everybody must have drawn from the protocols of the Conferences; but a short time afterwards papers were laid on our table, which completely explained the cause of this conduct on the part of the French Minister, and the means by which the attention of the Congress was directed to these extraneous and extraordinary subjects. It then appeared that on the 27th of March, ten days before the exposition of Count Walewski, the Plenipotentiaries of Sardinia placed in the hands of Lord Clarendon a memorandum which, if it be anything, is an act of impeachment against Austria and Austrian rule in Italy, which proposes for the Roman States a Secular Government, the *Code Napoleon*, and other remedies, and which in spirit was the basis of the observations that Lord Clarendon made on the 8th of April. Therefore it is quite clear that there was an understanding among the Plenipotentiaries in Paris that at their meeting on the 8th of April all these extraneous questions, including that of Italy, were to be brought forward; that the movement came from Piedmont; and in the memorandum of the 27th of March may be found the motive spring of all that has occurred. Now, to proceed a step further—to follow this up—what are the engagements, as the noble Lord the Member for the City interprets them, what are the representations—which with the laxest interpretation of the words we might call them—of Lord Clarendon? Our Foreign Secretary agrees that the state of Greece is “abnormal;” he agrees that the condition of the Roman States also is “abnormal;” but, as regards the Neapolitan Government,

“He is of opinion that it must doubtless be admitted in principle that no Government has the right to interfere in the internal affairs of other States, but he considers there are cases in which the exception to this rule becomes equally a right and a duty. The Neapolitan Government seems to him to have conferred this right and to have imposed this duty upon Europe.”

- Now, I ask the House whether that is language that could have been used, or ought to have been used, without having some foregone conclusion as to the policy of which it was to be the indication. Though I may not agree with the noble Lord the Member for the City that the language of a protocol of this character is an engage-

Mr. Disraeli

ment which may bind us with the formality of a treaty, still it is impossible to read it without feeling that we have a right to expect from the First Minister of the Crown, without revealing the secrets of Cabinets or the mysteries of States, some explanation of the declarations of the English Plenipotentiary more satisfactory than those phrases with which the noble Lord has favoured us to-night, and to which I confess I am at a loss to annex any other meaning than that which I had the misfortune, years ago, to attach to the statements of the noble Lord with respect to the affairs of Italy. The noble Lord has explained to the House what is the meaning he attaches to the exceptional character of the Neapolitan Government, and why there should be a departure, in the case of Naples, from that golden rule of non-interference, to which I trust the House will adhere, or which it will never quit without the most urgent necessity. The noble Lord said the position of Naples was remarkable, because, if the Government were to conduct itself so as to give rise to any revolutionary movement in the country, the armed forces of a great military Power—Austria—were at hand, “and you may depend upon it,” added the noble Lord, “Austria would occupy Naples, thus producing a state of things that would not only endanger the peace of Europe, but might bring about calamities which it is difficult to measure or foresee.” But when the noble Lord defends himself from the charge of doing nothing to mitigate the evils which, according to him, render the state of Naples so exceptional, and which require our interference, he intimates that, though England and France may not succeed—have not succeeded—in any way in obtaining that mitigation of Neapolitan rule which he thinks so necessary, yet some other influence, not less powerful, and which will be received in a far more friendly spirit by the Neapolitan Government, may be brought into requisition with more success. The House clearly understood the noble Lord to mean the mediation of Austria. It was the action of Austria upon Naples that, according to the noble Lord, was to induce the Neapolitan Government to cease from its ill doing and to adopt that remedial course which seemed so expedient. But how extremely inconsistent is it to hold Austria up to us as the Power which, by its beneficent interference with Naples, is to put an end to the iniquitous rule which you deplore, and

at the same time to say that, in the event of any revolutionary movement in Naples, Austria will occupy the kingdom in order to uphold the very misrule to mitigate which Austrian mediation, according to your own account, is now the only means to which you can resort! Sir, I cannot have much hope that the influence of Austria will be of the nature which the noble Lord supposes, if, as we are assured at the same time by the noble Lord, we have reason to anticipate and fear Austrian invasion in order to support the misgovernment which Austrian mediation is to mitigate and remove. But, Sir, in what way, viewing this question practically, are we to put an end to the occupation of Italian States by foreign Powers? The noble Lord who began the debate, confined the whole of his observations to the Austrian occupation of part of the Roman States. The noble Lord must have felt the extreme awkwardness of his position, because when he assured the House of his confidence that, with the aid of our great Ally, Austrian occupation might be terminated in the Roman States, he must have remembered that another part of the same States is occupied by the troops of that very august Ally by whose co-operation we were to put an end to the occupation of the Legations by Austria. The noble Lord touched very lightly—or, rather, did not touch at all—upon the fact, that the capital of the Roman States is occupied by French troops; though he must be aware that nothing can be more irrational than to address violent representations to Austria, in order to terminate the occupation of the Legations by Austrian troops, unless, at the same time, our Ally is prepared to take steps by which the occupation of the Roman metropolis itself by French troops shall cease. I know that this question has been settled by Count Cavour in a very ingenious manner; he insists upon it as a first condition, that Austria should quit the Legations, and that the French army should quit Rome, but should remain in the Legations until everything is settled. Now, I ask, what is the use of doing what the noble Lord has done to-night—what is the use—to employ his own language—of “rousing the passions” of the Italians, unless we have a practical object before us, and unless the opinion of Parliament can support the policy of the Minister? Never is this House justified in entering into discussions upon external policy unless we are prepared to impugn the conduct pur-

sued by the Minister as injurious to the country; or, unless we can, by the expression of our opinion, support the Minister in a policy which will be beneficial to the country and to Europe. So far as the theoretical part of the question goes, so far as sympathy for Italy goes, so far as “the poetry of politics” is concerned—there being but one feeling in this House—I want to know, when we turn to the practical question, what the Motion of the noble Lord will do, or what anything we can say will do, to support the policy of the Ministry? Why, Sir, what is the policy of the Ministry? It is the very point which, throughout this whole discussion, has been mysteriously withheld from us. I do not expect the noble Lord to tell us the means by which the Cabinet is prepared to carry out his policy; but we ought to know from the noble Lord what are their general opinions on the subject of the occupation of Italy by foreign troops, and whether they are prepared to take steps to put an end to that occupation or not? Now, Sir, there are two modes in which we can deal with this question, and as they are both practical modes, I will, with the permission of the House, and with as much brevity as I can command, slightly advert to them. We can go to war with Austria, no doubt; we can send a fleet to the Bay of Naples or to the Bay of Genoa; in co-operation with our great Ally, we can transport a French army to some part of Italy; as we moved another French army to the Turkish dominions: we may embark in a great struggle, the object of which will be entirely to change the face of Italian life and the spirit of its Government; to emancipate—according to our views—its people, and to effect a great revolution, which may, perhaps, be accomplished after one of those long wars like the Punic war, or the thirty-years’ war, or the war of the French Revolution—after one of those struggles which always occur when such immense consequences are aimed at and attained. On that policy, Sir, I will not presume to give an opinion; because I feel that it is a subject which would require a discussion worthy of its importance in this House before we embarked on it. I will make only one remark with regard to it, and I say, if that be the policy of the Government of this country, they are bound frankly to announce it. They are bound to submit such a policy to the consideration of Parliament, and, if sanctioned and ratified by Parliament, the people of this

country will, at least, have the satisfaction of knowing that they have not been drawn into a great struggle, without being aware of it, and their minds will be prepared—as the mind of a nation ought to be prepared—for so vast a stake, by those discussions in the House of their representatives which will direct their attention to the great issue before them. By this means they will be enabled to brace their energies to the occasion, and they will have no grounds for accusing the Queen's Ministers or their own representatives of having embarked in a conflict of such difficulty and duration without fair advice and warning. I think all hon. Gentlemen will agree that if that be the policy of the Ministry—that if they are prepared to go to war to emancipate Italy from Austrian rule, they are at least bound frankly to explain their policy, to appeal to Parliament, and to take the verdict of the country upon its expediency. There is another

2. practical mode by which you may proceed to attain your object. I remember that, some years ago, in 1848, at the end of the Session, later even than the present, because, I believe, it was at the end of August, it was my fate, as it has been the fate of the noble Lord to-night, to bring before the consideration of Parliament the question of interference in Italy. I have in my mind a fresh recollection of the events which took place in 1847 and 1848, and although the noble Lord may not condescend to profit by the experience of that period, I confess myself, that, when I look back to what followed, the consequences were so sad, and have been so opposed, in my opinion, to the progress of Italy, and to the amelioration of the condition of Italian society, that I tremble lest we should embark in a like enterprise again, and lest we should reap from that conduct the same bitter and desolating fruits. It is for this reason, Sir, that I have taken the liberty of entering thus early into this debate. This leads me to the second practical means by which you may attempt to emancipate—as it is termed—Italy. Sir, we may do this by rousing the passions of the Italian people. Without declaring war you may have diplomatic communications—you may have what you had in 1847—first, friendly advice, and afterwards, what are called “admonitions” to the ruling Powers; and I have not the slightest doubt, that without declaring war, and without the active co-operation of fleets and armies,

Mr. Disraeli

you may thus set a great portion of Italy in flames, and may reap consequences which we may all have deeply to deplore. I will try for a moment to trace what would be your diplomatic action under that second system upon Naples. But before I do that, there is one observation which I cannot help impressing on the House. The state of Naples is declared by Lord Clarendon to be so exceptional as even to justify the violation of the golden rule of foreign policy—namely, non-intervention. Now, it would be very desirable to have before us, on authority, some description by the Government of what the state of Naples is. I will, for the moment, assume that all those tales which have reached us of ruthless and savage imprisonment are perfectly authentic; but, if authentic, in all probability they are in a great degree the consequence of the panic-stricken councils of a small Sovereign surrounded by conspirators, encouraged by the menace of foreign interference. I will admit all we hear to be perfectly authentic—the ruthless imprisonments, and the cruel and even sanguinary punishments. Well, but I remember that a few years ago, there were alleged against Austria the same horrible stories of the imprisonment of citizens—the flower of the North of Italy—in distant fortresses. Who has not heard of the names of men in the highest walks of literature and science who have been the inmates of Austrian dungeons? I care not now to inquire what were the particular causes which induced those imprisonments. But was it not then felt that if we entered into that question we should be entering into the internal affairs of another country, and that the principle of non-intervention in foreign countries would be much endangered? But I want to know what there is in the state of Naples, at the present moment, that did not apply to the condition of Austria at the time of which we are speaking? If the cruel imprisonment of citizens by a Sovereign is considered so exceptional a thing as to permit the violation of the cardinal principle of the policy we have adopted, why did we not violate it in the instance of Austria? Why, when we hear of those dreadful banishments to Siberia with which hon. Gentlemen are so familiar, do we not consider that an exceptional case? And what other difference is there between Naples, and Austria, and Russia than this—that Naples is

a weak Power, and that Austria and Russia are very strong Powers? I would impress upon the House, therefore, that it should be very cautious upon this head. Now, let us see what will be the action of the second practical course in the case of Naples if we pursue it. We determine not to go to open war to emancipate Italy; but still the condition of Naples is so intolerable as to be an exception to the principle of our policy—so intolerable as to warrant interference, though not in a military form. Then, Sir, we have an admonition—England and France publish an admonitory note to the King of Naples, and, perhaps, an English fleet rides in the Bay of Naples. Everybody knows what the consequence of that would be. The instant that the discontented portion of the population of that kingdom find that Naples has lost the good offices of the great Western Powers, that process takes place which the noble Lord has referred to—the passions of the Italian population are roused. They will reason thus. They know well, when their own Sovereign is lectured by England and France, and an English fleet is in the offing, that if they rise, and rise successfully against their Sovereign, Austria dare not interfere. I deny the proposition of the noble Lord, that an insurrection in Naples is necessarily a prelude to an Austrian occupation. If England and France arouse the passions of the Italian population by proclamations and by lecturing the King of Naples, and if an English fleet is in the bay, Austria will not occupy Naples. The noble Lord who introduced this question seems to think that the revolutionary spirit in Italy is obsolete and worn out—that there is no contest going on in Italy but between worn-out dynasties and some intelligent and well-educated persons of the superior classes, who desire his great specific for all evils—constitutional government. I do not think that that this is a true judgment of the Italian people or of Italy. There is in Italy a power which we seldom mention in this House, but without considering and understanding which we shall never rightly comprehend the position of Italy—I mean the secret societies. The secret societies do not care for constitutional government. They do not want existing society ameliorated, they want it changed; and they seek objects from such changes such as can never be obtained or secured by those enlightened institutions to

which the noble Lord refers. We know something more of these societies than we did. Since the outbreak of 1848 we have had means—not sufficient, but still we have had means of obtaining a knowledge of their numbers, organisation, principles, and objects; and without some consideration of these it would be absolutely impossible for us to form a conception of what would be the consequence of our interference in the affairs of Italy. It is useless to deny, because it is impossible to conceal, that a great part of Europe—the whole of Italy and France and a great portion of Germany, to say nothing of other countries—are covered with a network of these secret societies, just as the superficies of the earth is now being covered with railroads. And what are their objects? They do not attempt to conceal them. They do not want constitutional government; they do not want ameliorated institutions; they do not want provincial councils nor the recording of votes;—they want to change the tenure of land, to drive out the present owners of the soil, and to put an end to ecclesiastical establishments. Some of them may go further. These are men of energy and determination; and do you think that, with their complete organisation, when Austria cannot interfere to occupy the kingdom of Naples, when the King is lectured on his throne by the Western Powers, and when, as the noble Lord says, the passions of the Italian people are roused, those societies will be quiet? We know what they did before. They rose, and their energy and their organisation carried everything before them. I am told that a British Minister has boasted—and a very unwise boast it was—that he had only to hold up his hand and he could raise a revolution in Italy to-morrow. It was an indiscreet boast, but I believe it not impossible, with the means at his disposal, that he might succeed. What would happen? You would have a republic formed on extreme principles, and there may be many intelligent and well-meaning persons—I do not say in this House—who would say, “And what then?” “Nothing can be worse,” they would say, “than the present state of Italy; let us try a Red Republic, or even a republic of a still more fiery colour.” But the question of Italian politics is not of that simple character. Rome is not far distant from Naples. The passage from Naples to the States of the Church is not difficult. You may have triumvirs again established in Rome; the Pope may again be forced to

flee;—and my hon. Friend behind me (Mr. Spooner) may say, “So much the better”—and not a cardinal may be left in Rome. What will be the consequences of that? You forget that the two great Catholic Powers of Europe—France, whose Emperor boasts in these very protocols of being the eldest son of the Church—that Ally with whose beneficent co-operation Italy is to be emancipated—if such a catastrophe should occur, France and Austria will pour their legions over the whole surface of the Peninsula. You will have to withdraw the British fleet; your admonitions will be thrown into the mud (as they deserve), and your efforts to free Italy from the occupation of foreign troops will terminate—as it terminated before—by rendering the thralldom a thousand times more severe, and by aggravating the miseries of the unfortunate people whose passions you have fired, and whose feelings you have this night commenced to rouse. But is that all the evil? If the movement which commenced at the Conference of Paris is to be followed up; if the protocols are to be succeeded by speeches of the noble Lord the Member for London while Parliament is sitting, and by admonition and written lectures by our foreign Minister and by our representatives abroad during the autumn, in all probability you will again have Italy in flames, you will again crush that progress which has been always going on in time of peace; and when we meet again we may find the position of the Peninsula infinitely worse than before. But do not suppose that the danger terminates here. What I have said I consider—so far as the future can be certain—to be the certain consequences of the policy which you are pursuing. What I am now going to refer to are merely possible results, but they are results of so terrible a character that it is my duty to refer to them, though I do so with reserve and some feeling of awe. The secret societies are not confined to Italy, as I have ventured to remind the House. They are at this moment more numerous, more active, and in a higher state of organisation in France than in any other State of Europe. If Italy be in flames, and if the Italian secret societies be successful, do you think that it will have no effect on the secret societies of France? They are always in a state of organisation and ready to act upon every occasion. Parliament and the country have confidence, and have justly confidence, in the character of the great prince

Mr. Disraeli

who now rules France. He is a man of rare sagacity, he has been schooled in adversity, and he is at this moment at the head of a numerous and triumphant army devoted to him. You may therefore allow Parliament to be prorogued with little fear as to the consequences to France of the system in which you are now about to engage in Italy. But you will allow me to remind you that we all remember another great prince who sat upon the French throne, whose sagacity during his reign was also a proverb, who was never mentioned in this House but in terms of panegyric on both sides, who also had been schooled in adversity, and who was also seconded by an army which he and the princes of his House had themselves formed, which was fresh and flushed with victory, and which was led by able generals devoted to him and eager to prove their devotion by the assertion of his rights and the maintenance of his throne. But that great prince fell suddenly, and he fell solely and entirely by the action of the secret societies. That I apprehend is a fact which no man acquainted with the events of 1848 will deny. No doubt that terrible catastrophe was assisted by a great misfortune which then occurred to France. In 1847, when a Member of the British Cabinet (whose career I have commemorated in this House already) was sent to give advice and counsel to the Italian princes, there happened to be a season of unexampled want in Europe, and especially in France. At no time within the following year were the means of sustenance and of employing labour so deficient. What is the condition of France at this moment? A terrible visitation has fallen upon that country. The charity of more than one nation and the admirable measures adopted by the ruler of France to mitigate the consequences of that visitation may enable the next season to be passed without that misery which fell upon the country in 1848. But the prospect of that country, in a material point of view, is very grave, and if you commence another campaign of Liberalism—the expression of vague opinions and sympathies without being prepared to support them by acts—a policy convenient for a Minister or a public man who wishes to make a political demonstration, or to an ambitious monarch who wishes to increase his territories, but one which a wise Parliament will hesitate to sanction with its ratification—if you once embark in this scheme

of raising the passions of the Italian population, as the best means of ameliorating their condition and mitigating the political evils of their country; and, if the consequences of that policy should unhappily be concurrent with a period of great agricultural distress in France, it will require all the sagacity of the prince—even though he may be most sagacious—and all the resources of his army, however numerous and however victorious, to guard against the danger; and fortunate will it be for France and for Europe if they escape the most fatal results. I have touched upon these points because I feel that this is no holiday question. We are now in the very lees of the Session, and this may probably be the last day on which there will be assembled so large a number of Members as were present when the noble Lord (Lord John Russell) rose to address the House, and commenced a course which, if not watched with vigilance and care, may involve the country in proceedings the consequences of which it is difficult to foresee. Sir, I certainly find some encouragement in the language of the First Minister. I infer from it that, notwithstanding the proud protocols of the Conferences of Paris—notwithstanding this despatch of the 27th of March from M. Cavour, which must have been delivered behind the scenes, and which in the papers appears as a speech of Lord Clarendon; notwithstanding all the pomp of the Conference and all the pride of the protocols, it appears to me that the noble Viscount has not attempted to deceive us, and that it is the calm, the well-considered, and the solid determination of Her Majesty's Ministers, as regards Italian affairs, to do nothing. I believe that the noble Viscount, profiting by the past, remembering the experience of the years 1847 and 1848, has made up his mind not again to be seduced into a position so difficult and so dangerous as that which he then encountered. This also I will say, that I have such confidence in the wisdom of the Emperor of the French that I feel persuaded that, as regards the affairs of Italy, he is of the same opinion and determination as the noble Lord the First Minister. I hope I am not wrong in this anticipation, but it cannot be unadvisable when such a subject as this is brought before the House to meet it fairly in discussion. Let us not, when questions of this kind are brought before us, be led away by the "poetry of politics." I can feel for the condition of Italy as

keenly as any Gentleman in this House, whether he be a First Minister or an ex-First Minister. I hope and believe that the time will come when in Italy there will be neither secret societies nor crowned despots. But these are questions for the closet, not for a practical and popular assembly. We have to deal with the facts before us, and if we raise up an agitation against Austrian rule without having a distinct conception in our minds of the objects at which we aim and the line of conduct which we intend to pursue, we shall be arresting the progress of Italy and aggravating every misfortune which has been brought under our notice. It is impossible to deny the fact that the great power of Italy is Austria. Both the noble Lords have admitted that, unless we are prepared to enter into an internecine struggle with Austria, our object ought to be to render the Austrian rule as mild and beneficent as we can. At least we ought not to encourage those who are prepared to conspire against that rule, but who are prepared to do nothing else. Sir, I was in Italy long before the affairs of 1848; and although unquestionably the Government of Austria was not that Italian Government which poets would picture in their dreams, though it was not a system of government under which Petrarchs were crowned with laurels in the capitol, yet it was distinguished from the other Governments of Italy by a vast expenditure of Imperial—not Italian—treasure upon public works, by the light taxation of the people, and by the progressive material improvement of the country. That is something. It is good to have a country with roads unrivalled, with means of communication yearly increasing. That is not, it is true, the only object of life; but I need not impress upon hon. Gentlemen that material prosperity is a basis on which you may, and in time probably will, establish civil and political rights; that the richer a people become the more anxious they are to guard that wealth; and that, whatever we may say of the Austrian rule, it was, so far as Lombardy was concerned, a rule under which at least the material character of the country was greatly improved. I have not been in Lombardy since that unfortunate year, 1848, but I have heard that the picture of society is now of a very different character. I hear, that in consequence of the affairs of 1848, taxes have greatly increased, public works have

been arrested in their progress, and the material development of the country has much diminished. Therefore by the course we took in 1848 we have not improved the condition of Lombardy. That leads me to my last point, our relations to Sardinia. The noble Lord the Member for London, (Lord John Russell) laid it down as a principle that, although there may be in the treaty with Sardinia no formal stipulation that we will support that country against other Powers, yet, after its adhesion to the great alliance and all that has occurred since, we are bound in honour to give it that support if it should be attacked. The noble Lord the First Minister seemed not to question that position, but rather urged upon the attention of the House that there was no fear that Sardinia would attack Austria. Now, I think it undesirable that men of the great character and influence of these noble Lords should in this House volunteer engagements to other countries which the *littera scripta* of a treaty does not authorise; but I certainly agree with the noble Lord the Member for the City that any attack upon Sardinia by any Power in consequence of the internal policy which she pursues would constitute one of those grave conjunctures which would demand the most serious consideration of the British Government, and could certainly not be encountered by a despatch or an admonition. Let me, however, remind the noble Lord, who says that there is no danger of Sardinia attacking Austria, of what occurred in 1848. It was Sardinia that then attacked Austria. It was when Austria was supposed to be in distress and in despair, even while negotiations of a not unfriendly character were going on between the two Courts, that the King of Sardinia made, as it were, a nocturnal attack upon his Austrian neighbour, and commenced the war which ended in his signal discomfiture. I hope, Sir, that the present King will profit by that experience, and will not repeat that move. I hope he will feel confident that if he, within his own dominions, pursues the policy which he believes to be for the advantage of the great body of his people, he will retain the respect of Europe, and will be safe from unjust attack. I should deeply lament that any occupation of Sardinia by Austria should take place. That would, indeed, be a conjuncture which would require the consideration of this House. To judge from the

Mr. Disraeli

past, I cannot bring myself to believe that any danger of that kind exists; I cannot but believe that the King of Sardinia is safe so long as he remains within the limits of his own dominions, and pursues that policy in the management of his kingdom which he has a right to follow. If anything can give him power to develop his whole political system, it is the maintenance of peace in Italy. But I am persuaded that, if the policy recommended by the noble Lord the Member for London is followed, you will have the position of Sardinia endangered—not by Austria, but by the revolutionary element existing in Italy, exercising its sympathetic influence upon the secret societies of Piedmont; and that throne will fall, not by the hand of Austria, not by the interference of foreign occupation, but by the efforts of men and bodies of men, who have in view far other objects than the constitutional improvements which wisely engage the attention of the King of Sardinia, and the subversive career of which will be accelerated by such attempts as the Motion made by the noble Lord to-night, to arouse the passions of the Italian people. Sir, the noble Lord the First Minister tells us that he cannot consent to the production of the papers now asked for. I am not surprised at it. I can hardly suppose that the noble Lord the Member for London expected them to be granted; but he has had an opportunity of placing before the House and the country the policy with respect to Italy which he advocates. I entirely dissent from the views of that noble Lord. I say, if you will interfere with Italy, you must interfere with fleets and armies, and be prepared to meet the consequences. If you interfere in Italy, you must make up your minds for a war of prolonged duration—a war that will tax your resources to the uttermost, and which, once it is commenced, you must continue until you have fully accomplished the objects for which you embarked in it, and which, in fact, cannot end until the map of Europe is reconstituted. That is the only mode in which you can interfere in Italy. If you are not prepared to do that, for the sake of the Italians, then, for the sake even of liberty and civilisation, you will avoid stirring up the passions of the population of that peninsula. I am confident this view is right, although you may smile at the association of the words “liberty and civilisation” with Austrian rule. We

are told that we can expect nothing from Austria. Let me impress on the House this point—that among Austrian statesmen are some of the most enlightened of public men. Among these are the present Prime Minister of Austria and the Minister of that country at the Court of Rome. They are pupils of Prince Metternich, and like their illustrious master, distinguished for their freedom from prejudice and passion. Such men have an interest in the well government of the Italian States. They must feel that, if Italy were tranquil and undisturbed, Austria, being a powerful nation, could afford to be element, to trust, and confide. It is the Kings of Naples—the little Sovereigns teased with constant conspiracies (fomented often by foreign Governments) who, rather from a feeling of panic than any natural cruelty or arbitrary disposition, are driven to those excesses which we all equally deplore and desire to see terminated. No monarch can wish to fill dungeons with his own subjects, if he can avoid it. I remember perfectly well that when Lord Minto went to Italy in 1847, and at the request of several of the northern Courts, tendered his advice on the part of the British Government, the same King of Naples, who is now depicted to us as quite a Caligula, was so anxious to establish some form of constitutional government in his dominions that he applied to our Government for their good offices towards that end; and Lord Minto, at the King's express desire, repaired to Naples, and for a considerable period, I believe, entertained sanguine expectations of success. It was the sudden outbreak of the French revolution which put a stop to the arrangements then in progress in Naples. For these reasons, although there can be no division to-night on this question, I hope the House will refuse to sanction the course recommended by the noble Lord—I hope it will arrive at this conclusion:—if we agree to interfere in Italy, let it be a real interference; or, on the other hand, if we are not prepared to act, if we are not prepared to give effect to our policy by force, then the best thing for us will be to remain silent; not to seek to rouse the passions of the population; not to upset thrones—a policy which can only end in aggravating the thralldom of Italy, and may lead to consequences still more fraught with disaster—not to Italy only—but to Europe.

Mr. BOWYER believed it was in his power to adduce a few facts tending to elucidate the debate. He had recently heard from persons in Italy, on whom he could rely, that the Roman States would soon be evacuated by foreign troops. He was told that Cardinal Antonelli, the Pope's Minister had declared to the Austrian and French Governments that he should very shortly be prepared to manage the internal affairs of the country without the assistance of foreign armies. He was further informed that measures had been taken, and were now in a forward state, for enabling the Roman Government to dispense with external aid of that description. When that result was attained, it was to be hoped there would be an end to these incessant attacks upon the Papal Government. At the same time, nothing could tend more to retard and thwart the progress of internal improvement in those States, and consequently to retard the evacuation of the country by the foreign troops, than addresses such as those delivered by the noble Lord the Member for London. That noble Lord, although possessed of great knowledge of the literature and the customs of Italy, allowed himself to be carried away by his political predilections, and sought to import into a country for which they were wholly unsuited those Whig notions which could only flourish in an English meridian. The views of the noble Lord could not be carried out unless we were prepared to convulse the whole Italian Peninsula with revolution. Being at present relieved from the responsibilities of office, that noble Lord was able to indulge in what had been called "the poetry of politics;" but if he had occupied a place on the Treasury benches, no doubt his wisdom and statesmanship would have led him to favour the cooler and more temperate counsels that night promulgated from that quarter. The noble Lord argued that, in return for the assistance rendered us by Sardinia in the late war, we were bound to help her in effecting her objects in relation to the Governments of other States. Nothing could be more unjustifiable than the course pursued by Count Cavour at the Paris Conferences. He had laid before the Conference a most minute scheme for remodelling the internal administration of the Roman States and of Naples—both independent Governments, and neither of them represented in the Congress—and called upon the Conference to pledge themselves to assist by force in carrying that

scheme into operation. A more monstrous project could not be discovered if they ransacked the annals of diplomacy. It proposed to place the provinces of the Roman States in a position of *quasi* independence, differing from the position of the capital, thus subjecting the Government to a process of decapitation by separating the head from the trunk. Such a ridiculous measure as that Count Cavour seriously suggested to the Conference as a decided improvement. There could be no doubt one of the real and chief causes of the insecurity of Italy was the policy pursued by the Sardinian Government within its own territory. That policy engendered constant agitation against the aristocracy and the Church, and allowed the press to carry on the most calumnious attacks upon the clergy and the nobility with perfect impunity; while, on the other hand, newspapers venturing to advocate the other side of public questions were carried on under constant fear of prosecution by the Attorney General of the Government. The newspapers which advocated what were in this country called Conservative opinions were constantly subjected to prosecution, while their opponents were allowed to indulge in the most virulent language. The right hon. Member for Buckinghamshire (Mr. Disraeli) had referred to the secret societies which were rife in Sardinia, and which were countenanced by the Government, and which sought, through the influence of those societies, to maintain its own power. He must also complain of the violation of the laws of property which had recently occurred in that country. The property of the cathedrals and religious orders had been seized by the Government, and the pensions which had been promised to those whose incomes were derived from that property had, in many instances, remained unpaid; and he was informed a few days ago, by a letter he had received from a distinguished Sardinian statesman, that some of these persons were now subsisting on charity. Considering the state of things which Count Cavour had brought about, he thought it ill became him to say that the Government of the Pope was a source of danger. That statement reminded him of the old fable of the wolf and the lamb, for Count Cavour had done all the mischief himself, and he now laid the blame upon the lamb. He thought it was most gratifying to see the leader of the Government and the leader of the Opposition concur in taking a statesmanlike, steady, and rea-

Mr. Bowyer

sonable view of Italian affairs. He, for one, would see with great pleasure a good and firm constitutional Government established in Piedmont; but the exciting language which was sometimes used in this country, and such language as they had heard from the noble Member for the City of London to-night was calculated to cause confusion and difficulty in the kingdom of Sardinia. When so reasonable and moderate a view of the subject was taken by two of the most distinguished statesmen in that House, he hoped that for the future the affairs of Italy would be allowed to pursue their natural course, and that advantage would not be taken of the weakness of the smaller Governments to address to them language which would not be used in the case of more powerful States. Those who looked back to what took place in 1848 could not wish to see a repetition of events which then issued in such disastrous results.

Mr. M. MILNES said, the noble Lord at the head of Her Majesty's Government had spoken on this subject with the reserve which his position rendered necessary, and had not given that encouragement to the noble Lord the Member for London which some hon. Members might have desired; but, on the other hand, he thought the noble Lord gave the right hon. Gentleman (Mr. Disraeli) no right to assume that he had come to the same conclusions as he had himself done; namely, that neither at the present nor at any future time could it be the duty of this country to interfere, either directly or indirectly, in the affairs of Italy. Her Majesty's Government had said nothing to justify the belief that they had abnegated that great principle which the liberal party in that House had always more or less supported—namely, that it was the duty of this country always by moral means, and if necessary and possible by physical means, to support the progress of liberty and the independence of nations. He trusted that England would never abandon that principle, and least of all at the present moment, when she had just sacrificed the blood of her bravest men to maintain the independence of a nation, which could exercise little influence on the interests or economy of the country. The right hon. Gentleman the Member for Bucks had sought to place the noble Lord the Member for London in a dilemma, and said, "If you interfere at all, you must do one of two things—you must declare war

against Austria, or you must drive Italy into revolution." He (Mr. M. Milnes) thought this argument hardly consistent with the dignity of a Parliamentary debate; but he would ask the right hon. Gentleman whether he, for his part, was willing to permit the occupation, by Austria, of the whole Italian peninsula? The Austrian possession of the Lombardo-Venetian territory appeared even theoretically a most extravagant intervention in the rights of Italy. What had the German race to do on the soil of Italy? If the Austrian possession of those territories was secured to her by treaty, at least we had the right to say, that those treaties limited her to those parts of Italy only, and gave no warrant to interfere in the affairs of other States. He did not presume to say that it was our duty, or the duty of any foreign State, to interfere with the Italian people; but we had a right to say, that Austria ought to limit her powers of interference to that portion of Italy which she occupies by treaty. If upon some such pretence as the demand of the reigning Sovereign she could occupy Tuscany, Romagna, and Parma, what was to prevent her occupying other States in the same way, and so spreading the strength of her military power over the whole of Italy. We had no right to assume that Austria was at present animated by such ambitious projects; but, nevertheless, the spirit of aggression which had already shown itself in Austria, made it the duty of the Powers of Europe, who respected the independence of States, to view her operations with some jealousy. Austria, for instance, had declared her willingness to place her army at the disposal of such princes as might be disposed to use it, and if such a principle as that could be introduced with impunity into the public law of Europe, the disasters it must lead to would be most lamentable. If the public law of Europe could be made to compel every Sovereign to rely upon his own subjects for protection, all the evils attendant upon foreign occupations would be avoided; but that could not be, and the aim of constitutional Powers should be to see, that when an occupation did take place, it should not continue year after year until it assumed an influence equal to that of the Government itself; otherwise there would be an end to the balance of power in Europe—for if upon no other pretence but that of assisting the reigning Sovereign, we were to allow to Austria the right to occupy States in this way, she

would gradually get possession of the whole of Italy; and then came the question, who was to turn her soldiers out? The right hon. Gentleman opposite must admit the possibility of some danger, and admitting that, surely he would say it was not unbecoming in us to guard against it. On the other hand, the right hon. Gentleman had waved in their eyes the torch of revolution, and had almost frightened them out of their propriety with stories of secret societies. Now, that was the worn-out line of argument adopted by tyranny throughout the whole of Europe. When a Government or a Sovereign wished to break faith with the people, they had hitherto had nothing to do but to get up a panic about secret societies. But let them look philosophically into the matter, and see whether it were possible or probable that societies of this extremely dangerous character could grow up in a well-governed country. If secret societies existed at all, they generally exercised great influence, and their very existence was a proof that the social wants of the country were not recognised—that there were social desires not accomplished. They showed that the Government, for all purposes of government, was not what it ought to be; and hence he was fortified in the opinion that secret societies were alone dangerous in countries which had feeble Governments. Secret societies failed altogether and became powerless when the Government regained its strength and equilibrium, as was shown by the events of 1848 in France. The people returned to their peaceful avocations as if no revolution had taken place, and when the influence of the secret societies reached its culminating point, the power of true order and discipline asserted its majesty in the streets of Paris. That there were secret societies in Italy no one could doubt. How could it be otherwise in a country where espionage was the rule of government, where the sanctity of family life was destroyed—where freedom of thought was abolished from the minds of men who had received the education of intelligent persons, and who by their communications and intercourse with other countries had learned to think and hope for themselves? Of course, amongst men so situated and oppressed there must be secret societies, and God forbid that there should not. But were we to fold our arms, because under such circumstances scenes of disorder might occur in Italy? Where we not only to do nothing, but to proclaim

to the world that we would do nothing? If such were the policy advocated by the right hon. Gentleman, he was thankful the Government of this country was not in the hands of a Minister who would counsel such a course—not that he believed that Parliamentary government in Sardinia was in peril, but he believed that if England were to show an unwillingness to protect Sardinia, the consequences might be otherwise than favourable to that institution—because it was quite impossible that Sardinia could be looked at by the absolutist Powers of Europe with any other than a jealous eye. Her very constitution made her an object of suspicion, and she was to Italy what Belgium had been to Western Europe. He remembered a great continental statesman once observed to him, “We on the Continent do not in the least mind what you do in England with your constitutional Government, because you are a strange isolated people; but your establishing the kingdom of Belgium, and showing thereby that constitutional government can flourish on the Continent in evil as well as good times, is one of the most dangerous examples that has ever been propounded.” And so, he had no doubt, the absolutist Powers of Europe regarded the kingdom of Sardinia; which rendered it the more necessary that we should throw around her the great protection of the shield of England. He believed that just as we did so openly and chivalrously, there would be less reason to suppose that we should be obliged to make any sacrifices for her. He regretted that the right hon. Gentleman should have revived the calumnies circulated some time ago, with regard to the mission of Lord Minto. He, like a certain foreign journal of influence, attributed the revolutionary spirit in Italy to that noble Lord’s mission; but the right hon. Gentleman altogether forgot that if the revolution of 1848 had not taken place things might have been very different in Italy. The counsels of Lord Minto had been marked by wisdom and moderation, and had they been followed there was no reason to disbelieve that by this time the mission of Lord Minto would have been remembered by princes and people with feelings of gratitude. With regard to the Roman States, the Comte de Montalembert had laid it down that none but Catholics could sympathise with or understand them, and therefore we had no right to interfere with the Pope’s dominions; but if the machinery of the Papal

Mr. Monckton Milnes

Government could only be kept in motion with the assistance of foreign armies, we had a right to say that in a temporal point of view foreign intervention could not be avoided. To talk of the independence of the sovereign head of the Catholic Church, when the Pope was manifestly kept upon his throne by some one of the Catholic Powers, seemed rather contradictory; but it was the religious element that was here referred to, and if that were so, he must say he saw no reason whatever why the question of Italian independence should be mixed up with the sublimer question of religion. Let the Pope remain in Italy if you would, but only upon the basis that his temporal power was regulated by a sensible and good form of government. This brought him to a point to which he begged the especial attention of the House, and that was the little attention the Italian population had at any period shown to any particular form of government. The Italians, however, had always been remarkably conspicuous for their moderation, and even during the occupation of Rome by the republican troops, property and life was quite as secure as they were in the time of the Roman Government. The difficulties of this question of Italian independence must therefore be greatly exaggerated. The process of establishing good government in Italy was, to his mind, so exceedingly simple that nothing but its extreme simplicity prevented its adoption. It would involve the sovereign princes in no risk whatever, and that fact made him fancy there was something at work upon their minds quite as injurious as any secret societies. It seemed to him that they were suffering under foreign influence, which prevented their doing what was right, as well for themselves as for their subjects; and, therefore, he thought it would be wise that there should be, on the part of liberal Governments, some interference to counteract or balance that of the absolutist Powers. He believed that Italy had a great future before her. Napoleon, in one of his conversations with Count Montebolon, said that he always had before him the scheme of establishing the integrity and independence of Italy. The difference between the various Italian States was no greater than that between the north and south of France, or even between Scotland and Cornwall. The progress of events would gradually mould them together, and the time might come when it would seem as strange to look

back upon the disorders of Italy as to those of France, and when one homogeneous nation might stand between the Alps and the sea—a proof of the wisdom and sagacious foresight of those who laboured in its behalf.

MR. WHITESIDE said, he thought that the House was indebted to the noble Lord the Member for London for having introduced to their attention a subject of such deep and painful interest. The speech of the noble Lord was eminently logical, and, having established his premises, he had drawn a conclusion that was irresistible; but if his object had been to induce the noble Lord the Member for Tiverton to declare a policy from that conclusion on the Italian difficulty, he had been signally unsuccessful. It was, no doubt, a great accomplishment to be able to speak well and gracefully, and yet to say nothing; and that the noble Lord the Member for Tiverton had done to admiration. The noble Lord had had a plain and practical question submitted to him that evening; he had spoken well and gracefully, as he always did; and yet he (Mr. Whiteside) ventured to say that there was not a man in the House who thoroughly understood what the noble Lord had intended to convey. The argument of the noble Lord the Member for London was irresistible. Leaving all abstract principles, and throwing aside all the poetry of the question, and applying himself to a matter of business, the noble Lord said, "I take up your protocols, I read your formal State papers, and I ask you, consistently with the doctrines which you have propounded, are you to remain contented with barren protocols, or do you intend to act up to them as sincere and honest men?" The noble Lord was the advocate of a manly and decisive policy. He said, "You have pointed out the evils under which Italy groans; you have drawn the attention of the Plenipotentiaries at Paris to the miseries of that country; do you intend to pursue your advice to a practical conclusion?" That question had been answered by the noble Lord the first Minister of the Crown by saying nothing; and if the noble Lord the Member for London were satisfied, or thought that he had obtained an exposition of a policy, he was easily contented. What was the House to say to those papers which had been presented, and to the modest revolutionary theories which Lord Clarendon had laid down at the Conferences? Lord Clarendon

said that they must deal with a strong hand with Naples, and that they must secularise the Papacy—in other words, that they must overturn the Government of Rome; because any man who told him (Mr. Whiteside) that they were to secularise the Papacy, and at the same time to continue the present Government of Rome, had a design upon his understanding. While the noble Lord the Member for London was logical, however, in reasoning upon the speeches of Lord Clarendon, he would have been exceedingly illogical if he reasoned upon his conclusions; because what had Lord Clarendon, who had spoken so well, really done? He could imagine Lord Clarendon saying at the Congress—"We have disposed of Circassia; we have settled Greece; we have put down the independence of the press of Belgium; and now we must do something for Italy." Well, but what had the noble Lord done? The practical question before the Congress being how to terminate the armed occupation of the Legations and other portions of Italy, this was the conclusion which had been arrived at as between the Plenipotentiaries of Austria and France—

"The Plenipotentiaries of Austria have acceded to the wish expressed by the Plenipotentiaries of France for the evacuation of the Pontifical States by the French and Austrian troops." When?—let the House mark what follows! "As soon as it can be effected without prejudice to the tranquillity of the country and to the consolidation of the authority of the Holy See."

Then, and not till then, the armed intervention was to cease. It was no wonder, then, that the noble Lord the Member for London had addressed his pertinent question to the Government; because it appeared that the armed occupation of Italy would continue till the Greek kalends, for if it were to continue till there was a good Government in Rome and the authority of the Pope was consolidated it would continue for ever. Justice had not been done to the argument of the noble Lord the Member for London; because his doctrine, rightly viewed, was not that of intervention, but of non-intervention. The noble Lord maintained that if it were a true doctrine that no one had a right to interfere between a Sovereign and his subjects when they disputed upon matters of internal policy, the Government, in order to carry out the doctrine, ought to have stipulated that the armies of Austria and France should at once withdraw from Italy; and he asked whether any assurance had been obtained

that their occupation would shortly cease? What was the answer of the noble Lord at the head of the Government to that argument? Had it satisfied the Liberal party? If it had, they were as easily pleased as they were when they ratified the conduct of the Ambassador at Constantinople. He had been assured the other day by a friend who knew Italy well, and on whom he could perfectly rely, that our Minister at Florence, the Marquess of Normanby, had actually sanctioned the intervention of the Austrian army. There was a policy! The Ambassador at Florence advocated one doctrine, and the Ambassador at Paris another. The noble Lord the Member for London, with the protocols in his hand, asked the noble Lord the Member for Tiverton what he intended to do in accordance with the opinions he had expressed; and the noble Lord the first Minister said he intended to do nothing. If the hon. and learned Member for Dundalk (Mr. Bowyer) understood the noble Lord's meaning, he must be the only Gentleman in the House able to understand it. But something practical might have been done. When the subject was discussed at the Paris Conferences, they might have asked the occupying Powers what good they had done for Italy during their occupation? An instructive and interesting history had been written of the Government of Rome under the first Napoleon, describing how the troubles of Rome had been composed and the people satisfied by an honest administration of the law, and by the introduction of the criminal code of France. But the present occupation of the French was a contrast to the last. Since it had commenced, had France attempted, or even recommended, any improvement? None that he had heard of. The noble Lord might well ask, therefore, what they were going to do for Italy. With regard to Naples they might have done one of two things. The noble Lord at the head of Her Majesty's Government might have said, if Naples does not behave itself we will blow it to pieces—that would have been a distinct policy—or he should have held his tongue if there was no intention of following up words by actions. But an indecisive, shuffling policy, which excited the feelings of the people without remedying their grievances, was a policy which all must condemn, and he agreed with the right hon. Member for Buckinghamshire that it would be wiser to renounce

Mr. Whiteside

interference altogether than to answer the question of the noble Lord the Member for London, as the noble Viscount had done. He did not believe in the doctrine that there was no hope for Italy. Far from it. In some parts of Italy just laws and good codes were in existence when the laws of this country were written in blood; there were good institutions and materials for good government; but, unfortunately, in this boasted nineteenth century, the cause of constitutional government seemed everywhere to retrograde, and if at one moment they might entertain some hopes for it, the next moment they were plunged in despair. There was no reason for revolutionizing Tuscany. If the laws enacted by wise men for that State had been maintained, this discussion on the situation of Italy would have been unnecessary. Nor did he think that it would be impossible to modify the system of government even in Naples. Lord Colchester, a predecessor of the right hon. Gentleman in the chair, after being present at the discussions of the Parliament, when they had a Parliament in Naples, recorded his opinion that he had hopes of the Government from the temper and moderation with which the debates were conducted. Naples did not require to be revolutionized; but if it did, would the noble Lord the Member for Tiverton revolutionize it? What was the principle of his policy? His principle was interference by protocols—protocols barren of good fruits, though not always barren of evil fruits. If two nations were continually firing protocols at each other, they would end by firing something else. The debate by which this protocol was preceded was very entertaining, though he feared it would lead to a permanent occupation of Italy. The French Minister said to the Austrian Minister, "Why don't you withdraw from Italy?" The Austrian Minister turned and said, "Why don't you withdraw?" He was afraid there was some quiet sarcasm in the noble Lord the Member for London's observation that when the foreign troops were withdrawn the Pope would be left to settle affairs with his own subjects. Was the noble Lord sure that the Pope's subjects would not settle him? If the Government of Rome represented Christianity upon earth, why not leave it to practise Christianity towards its subjects? But the noble Lord the first Minister of the Crown said he could

not adopt that policy, because "our august Ally" had an army there and did not intend to take it away. He did not know whether it was ever to be taken away, because the Emperor, as the eldest child of the Church, had declared his determination to support the Church. If, however, the foreign troops should be withdrawn, he was afraid that the cardinals would have to move as speedily as they had done on a former occasion, and that Rome would be cleared of some of its most respectable inhabitants. To talk of the law of nations in reference to the present system was all nonsense. What law could justify the army of one country in entering another country to settle a dispute between the rulers and the people? How should they have liked to see an armed occupation of Ireland by a foreign Power when a revolution there was talked about? They might at Paris have asked Austria to withdraw, but they signed a protocol which bound them to consent to the stay of the Austrians until the happy day came when Austria, France, and England could say, "Now our good work is accomplished, the Papal power is consolidated, and the States of Italy may again be as they once were—the light and glory of the world." The difficulty of extracting an answer from the noble Lord the first Minister, which would bind him to a policy, was proved by the persuasive eloquence of the noble Lord the Member for London having failed in the attempt. He agreed with the noble Lord the Member for London that the Government ought to do one thing or the other, and to pursue a course that would be satisfactory and intelligible; but he ventured to say that they would do neither one thing nor the other—that they would exasperate the feelings of the Italians, and having stimulated them into insurrection, would leave them to their miserable fate. That was a policy of which no humane or just man could approve, and he therefore regretted that the noble Lord the Member for London had failed in obtaining any satisfactory answer from the noble Lord at the head of the Government—which confirmed him in the opinion he had long held, that the great quality of the noble Viscount our First Minister was that of speaking eloquently and gracefully without saying anything whatever on the subject under consideration.

MR. J. G. PHILLIMORE said, he thought very few Englishmen would be found to coincide in the opinions of the

hon. Member for Dundalk (Mr. Bowyer) which seemed to him to be less Roman Catholic than ultramontane—opinions which had been condemned in all ages and by every writer of English views. [MR. BOWYER: No, no!] Had the hon. Member read Dante or Machiavelli?—the latter of whom described the secular government of the Papal Court as the scourge of Italy. The truth was, as all history showed, that of all bad Governments the Government of Priests was the worst, and of all sacerdotal Governments that of the Pope was most to be reprobated. The right hon. Gentleman opposite (Mr. Disraeli) said, "You would not interfere with Austria—why should you with Naples?" But this was a question not of right but of policy. Austria was landlocked, and was almost inaccessible to a British force; whereas the very appearance of a British fleet in the Bay of Naples would be enough to put an end to oppression. He was astonished to hear a gentleman like the right hon. Gentleman alleging the material well-being of a refined and high-spirited people like the Italians under the Austrian rule, as a reason why they should remain quiet under it. Surely the right hon. Gentleman, who knew right well the gratitude which the civilised world owed to Italy, did not wish the high-spirited Italians to be insensible to the degradation of their country. It was the policy of Austria to provide her people with sensual enjoyments, for the express purpose of keeping them in slavery; but the people of Italy could not be expected to acquiesce in a treatment which placed them on a level with the boors of Germany and Hungary. He (Mr. Phillimore) quite agreed that we had no right to encourage hopes which we could not realise; but if the lovers of despotism had countries to which they knew they could look for comfort and aid, it was right that the lovers of freedom should also know that there was one nation from whom their struggle would always command sympathy, and from whom they might, if possible, look for co-operation. It was true that nations were to be guided, not by excited feelings but by sound policy; but if there were any cause that should be dear to a man who loved freedom for its own sake it was the cause of the Italian people.

SIR JOHN WALSH said, that a convenient word had been coined in the French language which it would be desirable should be adopted as soon as possible into our own, namely, the word *spécialité*, the meaning of

which was an aptness for some particular thing or pursuit. Those who had watched the career of the noble Lord (Lord John Russell) had come to the conclusion that foreign diplomacy was not the *spécialité* of the noble Lord. But the noble Lord himself seemed to be of a different opinion, and, after a short retirement from public life, in which he had of late taken a less prominent part than usual, he had selected a foreign question upon which to make his reappearance in the public eye. The noble Lord had in one respect shown that he had attained no inconsiderable proficiency in the art of diplomacy, for he had listened carefully to the whole of his speech, and had totally failed to gather the policy that the noble Lord really wished this country to adopt, or the measures which the noble Lord called upon the House to pursue. But the noble Lord (Viscount Palmerston) gave his noble Friend the *quid pro quo*, for his reply was a *chef d'œuvre* of diplomacy. The noble Lord, in a succession of sentiments, in which they all concurred—clothed in well chosen language—gave the House no information whatever as to the course which the Government intended to adopt. As Danton took for his motto, "*l'audace, et toujours l'audace*," so the noble Lord, so far as he (Sir J. Walsh) could make anything out of his vague declarations, had taken for his motto, "interference somehow or other," and would plunge the country into a sea of interference upon Italian politics. This was surely a departure from the old Whig principles, which the noble Lord used to enunciate when he (Sir J. Walsh) had first the honour of a seat in that House. He remembered the time when the Whigs talked of nothing but non-interference in foreign politics, and when almost nothing was held to justify interference. Their motto in those days used to be, "*toto divisos orbe Britannos*." Now, we were called upon to take a part in the internal differences of a nation divided from us by a great distance, while not one of the Italian Governments wished to seek a quarrel with us, or to cultivate any other than amicable relations with us. The noble Lord said that if Sardinia were attacked we were bound to defend her; but who was going to attack Sardinia? Not Austria or the Italian Powers, for it was the very plain interest of Austria not to attack Sardinia. It was said we ought to force Austria to withdraw her troops from Italy. But, then, there was this difficulty—that

Sir John Walsh

France occupied another portion of Italy, and that Rome, the seat of Papal government, was in the possession of the French; and there was a general feeling that they could not be withdrawn from Rome without occasioning a revolution. They had yet to learn what the noble Lord assumed—that France was prepared to be our tool; for the Emperor Napoleon seemed to him to be the last man likely to be the cat's-paw of Liberalism either in that House or elsewhere. The Emperor Napoleon was, indeed, the person least likely to become an instrument in the hands of the revolutionary party. It would be madness and folly to plunge into a course of interference, reckoning upon the support of the Emperor Napoleon, which would be entirely antagonistic to his principles and interests. The hon. Member for Pontefract (Mr. M. Milnes) thought the presence of these troops unnecessary, and that, if they left the Italians to themselves, they would display admirable fitness for the exercise of constitutional liberty. With every wish to see foreign troops removed from the Italian Peninsula, he could not blind his eyes to the fact that political parties in Italy were not of the very innocuous character described by the hon. Gentleman. He could not forget that the movement in 1848, which appeared to hold forth to Europe a promise of considerable amelioration in the social state of Italy, was marred and defeated by the folly and madness of the ultra-revolutionist party. He could not forget the atrocities attending the murder of Rossi, and the scenes of violence and rapine which were witnessed in the Legations. And he could not forget that a political chief had recently had the baseness, the madness, and the folly, to advocate assassinations as a means of accomplishing reforms. He did not mean to libel the whole of that intelligent nation, whose great qualities he admired, but he meant to say that there were Italians who carried their political principles to Red Republicanism, which was identical with the Jacobinism of former times. As recently as 1848 and 1849 they had been strong enough to overpower the wise and moderate party, in whose hands every enlightened friend of liberty would wish to see the movement rest. While he was desirous, therefore, of seeing the state of Italy ameliorated, he could not deny that a revolutionary element of a very dangerous character did exist in that country, which required to be guarded by some precautions. Under these circum-

stances, he could not conceive a more negative proceeding than that of the noble Lord. He was quite sure the noble Lord would withdraw his Motion. Probably the noble Lord never intended to carry it to a vote. The noble Lord at the head of the Government, considering that he was responsible for the peace of Europe, and the relations between England and the great nations of the Continent, had wisely, in speaking a great deal, said nothing; and that would be the result as far as the Government was concerned. As far as the noble Lord and his followers were concerned, the only possible result would be to raise in the minds of the people of Italy some vague hopes, which might be disappointed—hopes which it was utterly unworthy of this country to raise unless it meant to realise them, and which he was quite convinced in the present state of the affairs of Europe the Government neither meant to realise nor could realise. For these reasons he deprecated this discussion as being mischievous in its effects, injurious to the people of Italy, and not creditable to ourselves.

LORD JOHN RUSSELL: It is necessary for me to say a few words in consequence of the entire misconstruction which the right hon. Gentleman the Member for Buckinghamshire has put upon my speech. I thought I had made the matter sufficiently clear by stating that my object entirely referred to the occupation of territories belonging to one State by the troops of another. I asked whether that system was right. I said that in my opinion an occupation of seven years was too long. I said I did not propose to interfere with any Government which its Sovereign and its people might think fit to establish. If a despotic Government suits them best, let them have a despotic Government. If they wish free institutions, let them and their Sovereigns arrange what institutions they will have. I proposed no interference on that subject, but I said, I cannot admire that form of Government which encourages abuses, which protects those abuses by foreign troops, and which makes the discontent arising from those abuses a pretext for retaining and continuing the presence of foreign troops. And, the subject having been brought before the Conferences at Paris, and a great deal was said upon it by Lord Clarendon, I asked the Government if they intended to proceed with the policy which Lord Clarendon stated on their behalf, or to withdraw from it. And I said,

I thought it desirable that either one course or the other should be adopted. I thought that was plain enough. The right hon. Gentleman (Mr. Disraeli) does not allude to that question of foreign occupation. He hardly mentions it. He says there are two courses, one of which we must take—either to go to war with Austria, or to rouse the passions of the people of Italy; and he says I have roused the passions of the people of Italy. Now, the whole of my case was this—I said the discussion in the Conferences had naturally created great excitement in Italy, and therefore it was desirable to know, for the sake of preventing the Italians being deceived or led to premature action, what was the policy of the Government. The right hon. Gentleman's charge is therefore quite inapplicable, and leads one to believe that, having framed it previously, he had not time to alter his speech after hearing me. The right hon. Gentleman has, in fact, declaimed upon two propositions, neither of which is mine; though I certainly did say, and I do say again, I think a term ought to be put to this foreign occupation of Italy. The hon. Gentleman who has just spoken (Sir John Walsh) has also misunderstood me; but I am not so much surprised at his as I am at the right hon. Gentleman's not understanding me. I wish to ask Her Majesty's Government what are their views with respect to foreign occupation. Should it be permitted for seven, fourteen or twenty-one years, or would they give a ninety-nine years' lease? Are the troops always to remain in possession of the territories which they occupy? If they are to remain ninety-nine years, is not that an actual transfer of the sovereignty? By the Treaty of Vienna certain countries are called the territory of Parma and the duchy of Modena. Does that mean that they are to belong to Austria, or that they are to be independent States? If independent States, is the protracted occupation of their territory consistent with that provision? That is the question which I put to the House, and of which hon. Gentlemen on the other side take no notice. Again, on the general question of interfering with foreign Powers, I say it is not my proposal to interfere. Those who go into a State and tell the Sovereign he cannot govern the people, and tell the people they are rebellious and disobedient, and every person who offends shall be brought before a court-martial of foreign officers, and punished at the dictate of those officers—those are the people who

interfere, and not I, who wish to put an end to their interference. With regard to the speech of my noble Friend the First Minister of the Crown, it has given great satisfaction to the hon. Member for Dundalk (Mr. Bowyer), and it may, therefore, seem rather strange that it should also have given satisfaction to me. But certainly it did, because I understood from it that the Government do not intend to abandon that policy which was stated by Lord Clarendon at Paris. With regard to the particular measures which they intend to take, I am the last person to be so unreasonable as to ask the Government to declare what those particular measures will be. But my noble Friend has said that it is still the wish of the Government that the foreign troops shall leave the Italian States, and that, in conjunction with the Emperor of the French he will, from time to time, take measures with that object. The right hon. Gentleman spoke of secret societies. He said the whole Continent was undermined by secret societies. But I am not sure that a Government extremely despotic and supported by foreign troops is the Government most likely to put down secret societies. It is in that rank soil these weeds are most likely to grow. These things act upon one another. There are secret societies; therefore there is foreign occupation. There is foreign occupation; therefore there are secret societies. You have always the Government defended by foreign troops, because there are secret societies, and the people resorting to secret societies because they see no other means of stating their grievances. The best intelligence I have heard is not from an official but from a semi-official quarter—the hon. Member for Dundalk, who speaks as it were on behalf of the Holy See in this House—and he tells us that the troops of Austria and France will in a short time leave the territory of the Holy See. [Mr. Bowyer: I said from private information.] Private information. Yes. It is not an official despatch which the hon. and learned Gentleman has received; but his statement gives me great satisfaction, as I think it very likely that the person who wrote to the hon. and learned Gentleman that private information may have heard it from very good authority. If it prove true it will be very satisfactory. If the people of the Roman States entertain that opinion of the Pope that they are willing to live at perfect peace with him without free insti-

Lord John Russell

tutions, or if, on the other hand—as I would be more glad to see—if Pius IX., being an Italian Sovereign, as undoubtedly he is, should return to the better thoughts and better measures of his earlier years of government, and without establishing constitutional government, which I rather think is premature, if he establish good councils, and have justice and mercy in his code, then I shall be quite satisfied that those institutions shall be such as the Roman Government shall think fit to establish, without any interference except such as the public opinion of the Roman States may happen to offer. I have one other thing to say. The right hon. Gentleman opposite (Mr. Disraeli) said that Lord Minto went to Naples at the request of the King, to assist him, in respect of some constitutional reforms, and to establish representative government. The fact is that the King proclaimed a constitution at Naples, when Lord Minto was at Rome, and in the opinion of Lord Minto, as well as of Pope Pius IX., that measure was premature. Lord Minto thought it would not hasten, but, on the contrary, would involve a risk of overturning the progress of reform and good measures in Italy; as actually proved to be the case, for we know that those who assisted in the formation of that constitution were afterwards brought to trial for assisting the King in that endeavour. What the King really desired Lord Minto to go to Naples for was, to intervene between himself and the Sicilians. There had been an insurrection in Sicily; the terms upon which that island should be governed were in question, and the King thought that the opinion of Lord Minto might be of weight in inducing the Sicilians to submit; and it was at the request of the King, and with the approbation of the Government of which his noble Friend the First Lord of the Treasury was then a Member, that Lord Minto went to Naples. The right hon. Gentleman seemed inclined to renew those insinuations against Lord Minto, that he had fomented revolution in Italy. Those charges are purely imaginary. Lord Minto recommended at Turin and at Florence the establishment of good government, but not the introduction of representative constitutions. If the English Government and its representative in Italy were busy in fomenting insurrection at Naples, Rome, and Milan, I would like to know whether the British representatives at Berlin, Vienna, and Paris were equally busy. It

was the course of public opinion, and in some of those countries the mismanagement of public affairs, which created the great revolution of 1848 throughout Europe, and power fell into hands which were incapable of properly employing it—into the hands of democratic factions which have been entirely put aside—for I believe not a vestige remains of the Governments of 1848—but I trust that future years will witness the confirmation of those liberties which it is most desirable should be established.

MR. DISRAELI observed, that the noble Lord had stated that he (Mr. Disraeli) had not noticed the occupation of the Legations. He had understood the noble Lord to say his object was to inquire whether the Government intended to pursue the policy indicated by Lord Clarendon at Paris. If the noble Lord referred to the protocols he would see that the conditions upon which the Legation should be evacuated were laid down.

Question put; and *negatived*.

PARTNERSHIP AMENDMENT (No. 2) BILL.

Bill read 3^d.

MR. J. G. PHILLIMORE proposed to add a proviso to Clause 3. He was anxious for the adoption of limited liability, but must say that the Bill, as it stood, was not sanctioned by any legislation in the world. All countries which adopted the principle of limited liability required publicity, which was completely excluded from this Bill. He would prefer that there should be a public registry of partners, which should be open to all the world; but, in order that there might be some kind of security, he would move to add the following proviso to Clause 3:—

“ Provided also, that no such loan shall be deemed to be protected by this Act, unless the lender thereof shall within fourteen days after the same shall have been advanced cause to be inserted in his own name in the *Gazette* of London, Edinburgh, or Dublin, according as the principal place of business of the borrower may be in England, Scotland, or Ireland, a statement of such advance, exhibiting the amount thereof, the person to whom and the term for which the same is made, the portion of the profits which the lender stipulates to receive on account thereof, and the nature of the business by which such profits are intended to be acquired.”

MR. WILKINSON said, it was all very proper that fraud should be prevented; but, if the Legislature went on adding precautions in this manner, the object of

the Bill would be altogether destroyed, and nobody would lend any money at all.

MR. MUNTZ supported the clause, contending that all the transactions which took place under this Bill should be made as public as possible.

MR. PELLATT asked what difference there was between giving credit for money and credit for goods? The whole question was one of character. He thought the proviso would materially damage the measure.

MR. SPOONER said, the difference between the case of a person selling goods and a person lending money was this—that the latter could secretly withdraw his money after having enabled the borrower to obtain credit in the market, whereas the seller of goods would only have the chance of obtaining payment in common with the other creditors after the lender had been paid.

MR. ROEBUCK said, the object of the clause was to let the world know the exact amount for which the parties lending the money were responsible; and that they did not want more credit than their capital entitled them to.

MR. GLYN said, the object of the clause was that all parties to a contract should be known to the public. He supported the clause, and considered secrecy in this case to be objectionable. But he would ask the right hon. Gentleman (Mr. Lowe) whether, under all the circumstances, considering the lateness of the Session and the state of the Bill, he was really prepared to press it forward? The right hon. Gentleman had admitted that it would be necessary to have a Committee next Session on the whole question of the law of partnership, and the Bill, as it at present stood, contained some most incongruous provisions.

MR. BIGGS opposed the clause, as it would seriously overlay the purpose of the Bill.

MR. JOHN MACGREGOR was confident that the Bill could not pass through both Houses this Session; he would, therefore, advise the right hon. Gentleman to withdraw it in order to introduce next Session some measure more consistent with justice and equity. He believed it would never work beneficially.

MR. LOWE said, the hon. Member for North Warwickshire had pointed out the distinction between lending and selling, by stating that lending was necessary to give to the borrower public credit; but he (Mr.

Lowe) should like to ask the hon. Gentleman how the fact of publishing in the *Gazette* that a trader was trading upon borrowed money could enhance his credit in the market? The hon. Member for Kendal (Mr. Glyn) had talked about the secrecy of these transactions, and of the necessity of making them public. The hon. Gentleman was a banker, and he should like to know whether the hon. Gentleman would consent to have every Bill which he discounted published in the *Gazette*? If he would not, and if the hon. Gentleman could carry on his business without publishing those Bills, why in this case should there be an exception? In a case where partners were only limitedly liable it was just and right that there should be a publication, and that notice should be given; but the question here was whether this was a partnership at all. The principle of this Bill was that lending on profits was not a partnership, and if it were not a partnership, why should there be annexed to it the incidents of partnership? If the principle he had just mentioned were a bad one, the House ought not to have passed the Bill so far through its various stages; if it were a good principle, then the House ought to leave these contracts to stand for what they really were—namely, for loans—ought to attach to them the incidents of a loan only, and allow them to remain secret, as other loans were. With regard to the particular clause now before the Committee, it surely could not be a *bond fide* proposition. It was proposed that “no such loan shall be deemed to be protected by this Act”—the fact being that the Act did not protect any loan at all—unless the lender should, within fourteen days after the same should have been advanced, insert in the *Gazette* “a statement of such advance, exhibiting the amount thereof, the person to whom and the term for which the same is made, the portion of the profits which the lender stipulates to receive on account thereof, and the nature of the business by which such profits are intended to be acquired.” It amounted, therefore, to this—that whereas a man might lend his money at a fixed interest without making it public, and without running any other risk than losing his money, a man who lent money the interest upon which was to vary with the profits of the concern was to be liable to his last shilling, unless he inserted in the *Gazette* a number of very loosely-worded provisions, a failure in regard to

Mr. Lowe

any one of which rendered him responsible for the whole of the debts. It was said that they ought to avoid pitfalls. Why, the whole proposal would involve a series of pitfalls, and, in his opinion, it would be a hundred times better to drop the Bill altogether than run the risk of establishing such a system. If this clause were adopted by the Committee it would be impossible to proceed with the Bill, and he called upon those who proposed the clause to point out what good it would do. He could understand, though he could not approve, a provision requiring the registration of these contracts; a registry might be referred to at any time: but here it was not proposed to register them; they were to be inserted in the *Gazette*, which it was most difficult to refer to, and which would not be referred to until a concern failed, and then there would be a search in the *Gazette* in order to discover if some unfortunate person who had lent money to the concern had not committed some trifling inaccuracy, and could not therefore be made liable for the debts. The provision proposed was full of snares and pitfalls for the lenders—like the Sphinx which set men riddles, and then devoured them if they failed in solving the enigmas. For himself, he stood upon the principle of the Bill, and he called upon those who had approved that principle to reject the clause now submitted to the Committee.

Mr. CARDWELL said, that whether theory was or was not on the side of the Amendment of the hon. and learned Member (Mr. J. G. Phillimore), at all events the experience of centuries was recorded in its favour. When, too, his right hon. Friend asserted that the clause was badly drawn, and contained nothing but impracticabilities and pitfalls, the Committee should remember that it was borrowed almost in its very words from the statutes of Massachusetts, and that it contained nothing which had not been in force in the United States during the time the principle of limited liability had been established there. His right hon. Friend had asked whether these contracts were to be regarded as loans, or whether they were to have annexed to them the incidents of partnership. Now, he would remind the Committee that on the last occasion when this question was discussed the House adopted an Amendment in favour of the partnership view of the case; and he therefore hoped the Committee would be consistent and would carry that principle *bond*

fade into effect. This was not a question of yesterday. Registration had long been required in Italy under this system, and Fierti, the great Italian commentator, laid it down that such registration was absolutely essential. The well-known American writer, Mr. Troubat, described the course taken in France, and said :—

“The French commercial law received at the hands of Louis XIV. the celebrated *ordonnance* of that year—‘one of the noblest monuments of the creative genius of that great King.’ In this *ordonnance* partnership *en commandite* was invested with the character and insignia of regular and real partnership, and was distinguished from other forms of partnership. But an agreement for it was not required to be publicly registered—a practice that gave rise to frauds, inasmuch as the secret special partner might, by purchasing the silence of his general associate, come forward after a failure and claim as a creditor for money lent.”

The Committee would observe the consequences attributed to the absence of registration. Was not experience a hundred times more valuable than theory when they were altering a law affecting the great commercial system of this country? Then, a great French commentator upon this subject (Mr. Troplong) brought us from the time of Louis XIV. to that of Napoleon, and he said :—“To prevent the danger of too much clandestinity”—the word might seem peculiarly French, but it expressed precisely the evil which it should be their object to avoid—to prevent too much clandestinity the *Code de Commerce* required all but the name of the special partner to be registered.” In the evidence taken before the Commission which had inquired into this subject it was pointed out that other countries had required the names of the special partners to be registered, and that mischief had been occasioned in France by the absence of such precaution. In dealing with this Bill he trusted the House would proceed upon experience rather than on theory. His right hon. Friend objected to the *Gazette* as a medium for these announcements. But did not every commercial question turn upon publication in the *Gazette*? Were not dissolutions of partnership made through that medium? Daylight was what they wanted—darkness what they wished to avoid. He submitted that the clause proposed would not prove a clog upon the Bill, and that the case in favour of the clause was irresistible.

Mr. LINDSAY said, for his part, he could not understand why a person should not be at liberty to lend money at a fluctuating

rate of interest. The law permitted him to dispose of one of his ships on any terms which he liked, and why should any restriction be placed upon his parting with his money in precisely the same way? If this clause were agreed to it would be impossible to draw the line, because a small loan to one man might be of as great consequence to him as a loan of £1,000 to a firm, and were loans of a sovereign to be published? He hoped that if the clause were agreed to the right hon. Gentleman would throw the whole Bill into the waste-paper basket of the House.

Mr. T. BARING said, that as regarded lending money, if the transaction were simply between man and man the principle of the hon. Gentleman, that there should be no restriction in point of law, might be a correct one; but in a case where A lent money to B, if, in consequence of that operation, the credit of either A or B was in any way altered in the eyes of the public the case became different, and some provision was necessary to avert the danger to which the public might be exposed; and the object of the clause proposed was to furnish such a provision. The right hon. Gentleman was so enamoured of his Bill that he could not think that he would withdraw it, even if the House agreed to the present clause; but he wished to point out to him that, considering that he had introduced the Bill in February, and that he had altered it three times before the second reading, it was not fair to the House or to the country to press on the Bill at so late a period of the Session. The right hon. Gentleman had stated that the Bill was founded upon the same principle as the Joint-stock Companies Bill. Now there were very serious doubts as to the actual operation of that Bill, and it would only be prudent to wait until those doubts had been set at rest before extending the principle. The right hon. Gentleman had stated that he wished to give the same facility to two men as was enjoyed by seven. But why did he stop there? Why not give the same facility to one man? Why not let one man say, “I am prepared to gain as much as I can, but only to risk a certain portion of what I have already got?” Why, because it would be perfectly absurd to say so; and the absurdity had been realised and the danger which might arise had been guarded against by the legislators of other countries which had adopted the principle of limited liability. It was said

that the present Bill would encourage benevolence, and enable a master to help a servant to start in business. Now, he did not pretend to be over benevolent, but he could quite understand lending money to a man out of benevolence without asking him for a share of his profits. It might be lent to him without interest, or at a low rate of interest, but there was no necessity for the lender to receive a share of the profits. The fact was that the Bill was not a Bill to assist the poor man. It was, on the contrary, a Bill to enable the rich man to run his chance in a lottery, and only risk a certain stake—to grasp all that he could, with the risk of losing as little as he pleased. The Bill, as it at present stood, would do nothing but give rise to gambling, and he trusted that it would not, in its present form, receive the sanction of the House of Commons.

VISCOUNT PALMERSTON said, he was quite at a loss to understand the distinction which hon. Members attempted to draw between money lent upon profit and upon a fixed rate of interest, or why there should be such danger apprehended to the country if money should be lent upon profits without publication, whereas no publication was required of money lent upon interest, let the rate be ever so high. If there was any value in the argument urged against the Bill, hon. Gentlemen who made use of it ought to go a great deal further. They ought to bring in a Bill to prevent persons engaged in trade from borrowing any money at all, and to confine them entirely to their own capital. The principle which lay at the bottom of these objections was that principle which he had hoped had long since been worn out in this country—the principle of restricting all transactions, of interfering between all persons, whether engaged as borrowers or lenders, which in former times had led to the assize of bread, to regrating, and forestalling. It was the principle which proclaimed that the Legislature was to be the guardian of every person in the community, that it was to prescribe the conditions on which transactions were to be carried on between man and man, as if commercial men were children, and required that their interests could be protected by the parental care of the Legislature. That principle was a bad one, and he hoped it would not receive the sanction of the House. He hoped that the House would come to a decision, not so much on the clause itself as on the Bill, and say at

Mr. T. Baring

once whether they would have the Bill or not.

MR. BROWN thought the Bill the most dangerous measure which had ever been introduced into that House. It was in fact a Bill to enable persons to commit fraud under the protection of an Act of Parliament. He was of opinion that, where any person shared in the profit of a concern, that person should be held responsible to the whole extent of his fortune.

MR. HENLEY was of opinion that, as a clause had been introduced into the Bill at a former stage, enacting that lenders on profit should be postponed to all other creditors, some such provision as this was necessary to prevent collusion. He should therefore support the clause.

MR. MALINS said, the clause proposed was so foreign to the objects of the measure and to the habits of conducting business, that if it were adopted the Bill would be entirely valueless.

MR. T. HANKEY said, that if this clause were assented to, he should recommend the immediate withdrawal of the Bill.

After a few words from Mr. GREGSON and Mr. BASS,

Question put, "That those words be there added."

The House *divided*: — Ayes 108; Noes 102: Majority 6.

Motion made and Question proposed, "That the Bill do pass."

MR. LOWE said, that, after the decision to which the House had just come, it was not the intention of the Government to proceed with this Bill. If hon. Gentlemen would excuse him for a moment, he had one word to say on a point which considerably diminished his regret at the result of the division. Since he introduced this Bill, he had had laid before him the opinion of Mr. Justice Cresswell, Mr. Justice Willes, Mr. Baron Bramwell, the Attorney General, the Solicitor General, Sir Fitzroy Kelly, and one or two other legal gentlemen of eminence, to the effect that all loans lent on the terms of receiving a portion of the profits, and all services given on similar conditions, did not render persons liable as partners. He stated this publicly, because it was only due to the public that it should be made aware of it; for if those learned persons were right, the decision the House had come to would deprive the country of one of the safeguards which would have been afforded if this Bill had passed in its original shape.

MR. DISRAELI wished to know whe-

ther the right hon. Gentleman had any objection to lay before the House, not only the legal opinion to which he had referred, but also the case on which it was based. If the practice of falling back on the opinions of gentlemen of the long robe, with the view of alleviating the pain of a defeat, was to be introduced into their debates, it was but fair that the House should frankly be made privy to the sources whence the official consolation was derived.

MR. LOWE would, as far as he was concerned, be most willing to accept the challenge of the right hon. Gentleman, and to lay the case as well as the opinion before the House. The opinion was given on a case drawn up in special reference to the Unity Bank, which was founded on the principle that the depositors should be entitled to dividends according to the rate of the profits accruing from the business; and the learned personages he had named gave their opinion in favour of the legality of this principle, on which the bank was now acting. He did not know that it would be any breach of confidence on his part to give publicity to the case and the opinion which had been put into his hands; and therefore, as far as he was concerned, he should be quite ready to do so.

MR. MALINS understood that the opinions of the learned Judges referred to were given before they were raised to the judicial bench.

MR. HENLEY deprecated the observations just made by the Vice President of the Board of Trade. Extra-judicial statements, probably not worth the paper on which they were written, when they received the sanction of the high official authority of the right hon. Gentleman, were calculated to produce a serious amount of mischief.

Motion, by leave, *withdrawn*.

Bill *withdrawn*.

MERCANTILE LAW AMENDMENT BILL.

On Question that this Bill be now read 2^o

MR. T. BARING asked if it was the intention of the Government to proceed with this Bill with the first clause at it now stood?

MR. LOWE hoped the hon. Gentleman would agree to the second reading of the Bill, and take the discussion of the first clause in Committee. By opposing the Bill now because of the first clause, the entire measure, which contained some excellent enactments, might be endangered; whereas the object of the hon. Gentleman would be obtained equally well in Committee.

MR. T. BARING would not oppose the second reading, if the right hon. Gentleman would give an assurance that the first clause would be withdrawn in Committee.

MR. J. G. PHILLIMORE, MR. HADFIELD, MR. MALINS, and MR. W. BROWN, expressed their opposition to the first clause, which went to repeal one of the most important provisions of the Statute of Frauds.

MR. ROEBUCK thought, if the right hon. Gentleman acted prudently, he would withdraw the first clause, otherwise the entire Bill would be endangered.

MR. CRAUFURD was in favour of the first clause.

MR. MASTERMAN assured the right hon. Gentleman that the mercantile interest generally of the City of London were strongly opposed to the first clause of the Bill.

MR. LOWE said, he had no wish to persevere against such an array of opinions as seemed to exist against the first clause; and his only difficulty was that the Bill was not his own, but had been introduced into the House of Lords under the sanction of very high legal authority. He must say for himself that he thought the first clause perfectly right; but after the expression of opinion he had heard, he would consent to withdraw it in Committee.

MR. BARING, on the understanding that the clause would be withdrawn in Committee, would not oppose the second reading of the Bill.

Bill read 2^o, and *committed for this day* (Tuesday).

POOR LAW AMENDMENT (SCOTLAND) BILL.

Order for Third Reading read.

Motion made and Question proposed, "That the Bill be now read the third time."

MR. BLACKBURN trusted that the Bill would not be pressed, for the feeling of the Scotch Members was against it. They objected to the appointment of two permanent inspectors. He moved that the Bill be read a third time that day three months.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

THE LORD ADVOCATE was not aware of this adverse feeling among the Scotch Members, and should not withdraw the Bill, deeming it one of considerable importance. As the Bill at present stood, it was perfectly satisfactory to Sir John

M'Neill, who had administered the Poor Law in Scotland in a most masterly and efficient manner. The Highlands were now happily in a more prosperous state than they were some time back; but, as bad times might recur, no man who had witnessed what he had would take on himself the responsibility of rejecting a measure which, at a cheap cost to the public, would be productive of great benefit in the working of the Poor Law.

MR. COWAN said, he would support the Bill, if he understood that Sir John M'Neill had not at present the power which the Bill proposed to give him.

SIR GEORGE GREY said, Sir John M'Neill had not the power of appointing permanent inspectors.

MR. DUNCAN objected to the appointment of a roving commission to investigate into the affairs of every local board, with their consent or against it.

MR. ALEXANDER HASTIE maintained that the powers at present possessed by the Board of Supervision rendered the Bill unnecessary.

MR. BOUVERIE remarked that, the powers of the Board of Supervision referred to special inquiries only, whereas the Bill provided for the appointment of permanent inspectors. That system had been found of great importance in England.

MR. CRAUFURD observed, that evils existed in the Highlands which could be remedied only by the machinery provided in the Bill.

Question put, "That the word 'now' stand part of the question."

The House divided:—Ayes 95; Noes 25: Majority 70.

Main Question put, and *agreed to*.

Bill read 3^d; clause added.

Bill *passed*.

TITHE COMMUTATION RENT-CHARGE BILL.

On the Order for going into Committee on this Bill being read,

MR. R. PHILLIMORE said, he found himself compelled, though most reluctantly, to abandon the hope of proceeding with this measure any further during the present Session. He called the attention of the House to the fact, that in the second week of May he had carried the second reading of this Bill with the unanimous consent of the House, upon the ground that he had demonstrated that a particular class of Her Majesty's subjects, namely, the lay and clerical tithe-owners, were suffering

The Lord Advocate

from great injustice caused by the unintended operation of certain Acts of Parliament; that the Bill had been referred to a Select Committee, which had patiently and carefully examined the whole question, and had materially altered the provisions of the Bill; proceeding, nevertheless, upon the principle that redress was due to the tithe-owners, but varying the mode of conferring it. The Bill had been sent back to the House early in June, ever since which time he (Mr. R. Phillimore) had in vain endeavoured to advance it another stage. Having regard to the lateness of the Session, and the rule of another place not to take Bills after the 20th of July, he was obliged to withdraw the measure for this Session; but he hoped that, as the injustice had been admitted, that the House would assist him in obtaining a remedy at an early period of the next Session.

The Order for going into Committee was then *discharged*.

The House adjourned at Two o'clock.

HOUSE OF LORDS.

Tuesday, July 15, 1856.

MINUTES.] *Took the Oaths*.—The Lord Bishop of Carlisle.

PUBLIC BILLS.—1st Indemnity; Formation, &c. of Parishes; Poor Law Amendment (Scotland); Nuisances Removal, &c. (Scotland) (No. 2); Episcopal and Capital Estates Continuance; Customs (No. 2).

2nd Bishops of London and Durham Retirement; Prisons (Ireland); Commons Inclosure (No. 2).

3rd Stoke Poges Hospital.

THE ARMY—THE COMMAND IN CHIEF—QUESTION.

THE DUKE OF SOMERSET said, that it would be in the recollection of their Lordships that two years ago, when the Department of the Secretary for War was created, considerable discussion took place in both Houses of Parliament on the relative duties of the Secretary for War and the Commander in Chief. It was then the impression that those two departments would never act harmoniously together, that differences of opinion between them would occasion delays, that those delays would be attended with inconvenience to the public service, and that the responsibility which was considered essential for the efficiency of the service would be neutralised. An opportunity, which they all regretted to have occurred, had now presented itself for making an alteration, if requisite, in the position of the Commander in Chief, and he wished to know whether,

in making the new appointment, Her Majesty had been advised to make it in a different way from the mode in which former appointments of the same kind had been conferred; and whether the position of the Commander in Chief in regard to the Secretary for War had been in any way altered, and whether it was proposed to create any Board to assist the Commander in Chief?

LORD PANMURE said, he thought that in answering the questions put to him, it would be best to state briefly that with regard to the office of Commander in Chief no alteration had taken place in the shape of giving that officer any Board to assist him in the performance of his duties; and, in respect to the present appointment, no difference had been made in the relations which existed between the Secretary for War and the late Commander in Chief. In the relations which existed between the Secretary of State for War and the Commander in Chief, he considered that entire responsibility for all acts of the Commander in Chief rested with the Government of the day. The Commander in Chief made no appointments in the superior departments without consulting and obtaining the concurrence of the Secretary for War; and in the administration of the minor patronage of the army that officer acted on his own responsibility, but subject always to the control of the Secretary for War. Having thus answered the questions put to him, he felt he should not be doing the duty he owed to the late Commander in Chief if he did not express his deep regret at the circumstance which had induced the noble Lord lately at the head of the army (Viscount Hardinge) to resign his command. He knew no individual who had filled that situation with such entire satisfaction to the army, the Sovereign, and the country as the noble Lord whose services had just terminated. He knew of no individual so entirely qualified to undertake that most responsible duty as that noble Lord, from the fact of his having been brought up at the feet, he might say, of the Great Captain of the age, of his having gone through the Peninsular War, of his having been connected not simply with the British army, but also with foreign armies; and, finally, in consequence of his having seen war on the largest scale on the plains of India. To all this general experience, the noble Lord added the experience of Master General of the Ordnance; and for all these reasons he knew of no individual so highly qualified to fill

the office of Commander in Chief. There was no doubt that the army would greatly miss his services; and for himself he must say, that since he had held the office of Secretary for War he had had no difference with the noble Lord, and all business transactions had been conducted between them with a harmony and friendship which he should never cease to remember.

VISCOUNT MELVILLE said, he had derived great satisfaction, and he was sure the whole army would also derive satisfaction, from the testimony given by the noble Lord to the character and services of the late Commander in Chief. He must say, with the experience he had had in service, and in consequence of what he had witnessed during the last year and a half, he thought the time had now come when a Cabinet Minute should be drawn up, to receive the sanction of Her Majesty, defining where the duties of Secretary of State for War ended, and where those of the Commander in Chief began. In order to provide for the efficiency and proper organisation of the army, he thought it indispensable that all promotions should be vested in the Commander in Chief, as well as everything relating to the discipline of the army. At the present moment there was a divided authority, and great difficulty had in consequence been experienced in carrying on the duties connected with the administration of the affairs of the army.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Order of the Day for the Second Reading read.

THE LORD CHANCELLOR rose to move the second reading of the Bishops of London and Durham Retirement Bill; and said that he should have supposed the measure would have been received with universal approbation if he had not received an intimation to the contrary on moving the first reading. The object of the Bill was to enable very important duties to be adequately discharged, which the present holders of the offices upon which the discharge of those duties devolved had earnestly represented their incapacity to discharge. The duties to which he referred were those which appertained to the important offices of the Bishoprics of London and Durham. The right rev. Prelates who had so long adorned those sees had gained for themselves, not only from those over whom they more immediately presided, but from the country at

large, an amount of approbation which could hardly be exaggerated. His right rev. Friend the Bishop of London, with whom it had been his good fortune to be intimately acquainted from his earliest years, had discharged his high duties with a singleness of purpose, with a disinterested desire to benefit those who were placed under his care, rarely equalled and never surpassed. In the discharge of duties so important, and which were sometimes so difficult, it was impossible that every act of that right rev. Prelate during his long tenure of office should have met with universal approbation; but he believed that commanding as he did a very large income and presiding over a very large diocese, no one would contradict him when he said that the whole of that large revenue and the whole of his time had been devoted to the advancement of the spiritual and temporal interests of those over whom he presided. The same observations were applicable to the Bishop of Durham. In one respect those two right rev. Prelates occupied different positions. The Bishopric of London was not what was called a "regulated bishopric," but the Bishop received the whole of the revenues of the see. The Bishop of Durham, on the other hand, who had been appointed to his see after the rule had come into operation, by which it was provided that he should pay a fixed sum out of the revenues of the see, calculated on the assumption that after such payment there would remain to him, a net income of £3,000 a year. It turned out, however, that the revenue left at the disposal of the Bishop of Durham greatly exceeded that sum, being about £13,000 a year, and the right rev. Prelate had, with great liberality, set apart a portion of this surplus to form a fund called the "Maltby Fund," for the benefit of his diocese. The Bishop of London had received the entire revenues of his see, which might be stated at somewhere about £18,000 a year, whereas if the Bishopric had been regulated the income would have been £10,000. The Bishop of Durham was very advanced in life, he was nearly blind, and quite unable to discharge the duties of his bishopric. The Bishop of London, although by no means so advanced in life as the other right rev. Prelate unfortunately had a severe paralytic attack last autumn, from which he had in some degree rallied, but he had come to the conclusion that it was not probable he should again be enabled to attend to his duties. Both those

The Lord Chancellor

right rev. Prelates in the course of last month communicated to the Government their desire to be allowed to retire from their offices, because they felt that they could no longer discharge their duties. The Government then had to consider what steps could be taken to comply with their request. He did not say that some general measure on this subject would not eventually have to be introduced, but there was great difficulty in framing any general measure. One difficulty was in reference to the regulated bishoprics, the incomes of which had been fixed at £4,500 a year; because that sum having been considered the proper salary for the office, it could not very well be charged with any sum as allowance to a retiring Bishop. The Government did not think it wise without further consideration and at this period of the Session to propose any general measure. But the case of the Bishops of London and Durham appeared to the Government in many respects exceptional. There was a great if not practical difference between the bishopric of London and other bishoprics, inasmuch as the duties attached to it were made more numerous and important. A similar observation was applicable to the bishopric of Durham, the metropolitan see of the north. The Government, in considering the course they ought to pursue, on receiving the representations he had mentioned from these right rev. Prelates, first inquired whether there was any law whereby their resignations might be effected without the aid of Parliament, and securing to them an income after their resignations. He believed there was no such law; but, at all events, the matter was involved in extreme obscurity, and, in fact, he had been able to discover no precedent of an actual resignation since the Reformation. In the middle of the last century Bishop Pierce wished to resign the see of Rochester, and long discussions on the subject took place between Lord Chancellor Northington and Lord Chief Justice Mansfield; the Lord Chief Justice being of opinion that he might resign, while the Lord Chancellor held that he could not. The doubts of Lord Northington appeared eventually to have been set at rest, but some difficulty was raised by the Crown, and the resignation did not take place. Again, in the reign of Queen Elizabeth, Archbishop Grindall, after resisting the attempts of the Queen to force him to retire, expressed a wish to resign; but, nevertheless, he died Archbishop of Canterbury. He was not prepared to say

whether resignations had not taken place in Roman Catholic times, under the rule of the Pope, but he thought their Lordships would feel that, considering the effect of the resignation would be to remove from their Lordships' House two of its most distinguished members, and they could find no precedent for so doing, it would have been exceedingly unwise for the Government to proceed in such a matter without the consent of Parliament. There being the difficulty he had stated with regard to the general measure, there came the question how to deal with these exceptional cases. The revenue received by the Bishop of London being £18,000, while the income of the bishopric was fixed at £10,000, there would be no difficulty in providing a handsome allowance for the retiring Bishop. So again in the case of the Bishop of Durham; although he was a "regulated" Bishop, ample provision could be made for that right rev. Prelate out of the surplus revenues of the see. The Government thought there would have been reason to complain if, after such an intimation, they had remained passive spectators of the state of their dioceses. The Government had, therefore, introduced a Bill, which he asked their Lordships now to read a second time, and which relieved these two Prelates, according to the wish they had expressed, from duties which they were unequal to discharge. A charge upon the revenues of their sees would be created, which would, however, in each case leave a surplus for the Ecclesiastical Fund. It had, he believed, been contended that this sanction on the part of Parliament was of a simoniacal character, since it was, as it were, bribing these two Prelates to retire by offering them handsome allowances for so doing. This, however, amounted to saying that there were to be no episcopal resignations, unless the Bishop were prepared to resign without having the means of support for the rest of his life; which would be equivalent to saying that there was to be no resignation at all. The Bishop of London would retire upon £6,000 a year. With the respect which he felt for that right rev. Prelate it was extremely painful to him to discuss this subject. He had not heard the circumstance he was about to mention from the right rev. Prelate's own mouth, but he had been assured, and had no doubt of the fact, that the right rev. Prelate had never saved any money, except that he had insured his life largely. This necessarily

meant that to the end of life the person assuring must pay large sums to keep up these insurances: so that the Bishop of London could not retire without making provision for keeping up these payments; and he was informed that about one thousand a year would be exhausted in keeping up the insurances which he had properly effected for the support of his wife and family. He thought that no one would object to the amount of the retiring allowance if the principle were admissible. He knew that any resignation of a benefice must be accompanied by a declaration that there had been no corrupt bargain. But would any one contend that it was a corrupt bargain when a person receiving £18,000 a year—which he might, if he chose, continue to receive without doing anything for it—expressed his willingness to give it up if he were enabled to live in comfort for the rest of his life? He could not conceive anything less open to the imputation of a corrupt bargain than such a surrender; and the same remark applied to the resignation of the Bishop of Durham. He knew that such an arrangement would not be tolerated in the case of a beneficed clergyman, who by the statute of Elizabeth was obliged to resign his benefice without receiving any consideration. But it would not be contended that what was done by an act of the Legislature could not be altered by Parliament when the occasion required. It was also alleged that the form of this Bill was not such as to be respectful to these right rev. Prelates. It could not be supposed that any disrespect was intended on the part of the Government; but it was said, that, although they had expressed their desire to resign their sees, the enactment declared that the sees had become vacant, when it ought to have declared them vacant upon their resigning. The Government, however, had no objection to introduce in Committee words to the effect that the Bishops should be held to have resigned upon resigning their sees to the Metropolitan, and upon their resignation being accepted by him. Anything that the right rev. Bench might suggest upon this subject would be adopted without hesitation by the Government. He had now to ask their Lordships to give a second reading to this Bill.

Moved, That the Bill be now read 2^d.

LORD REDESDALE said, on the best consideration he could give the measure, and he had considered it attentively, the

only conclusion that he could come to was, that it was not expedient for the House to allow it to pass a second reading. The question was one of very great importance, and it was better that the short delay should occur which would be necessary for framing a general measure on the subject than that by adopting the present exceptional measure they should establish a dangerous precedent. The more facilities the two cases under consideration presented for a settlement, the greater was the danger as regarded a general measure in respect to future settlements; and he did not think the Legislature ought to act exceptionally in such a case. He was not opposed to the principle of retirements, but he could not help seeing its inconvenience in the case before the House, inasmuch as if it were adopted in the instance of Bishops, it would also, on the footing of justice, have to be adopted in the case of rectors, and, indeed, to be extended to the clergy generally. He could see no reason why an infirm Rector should not be enabled to retire as well as an infirm Bishop. The particular case in question came before the House, moreover, in a manner which the House should, in his opinion, hesitate to sanction. Here were two Bishops who placed their sees at the disposal of the Minister, upon condition that he made certain arrangements for their retiring allowances. Now, these were two sees, the occupants of which had seats in their Lordships' House immediately upon their appointment. There might be persons who would object, that the nomination to these bishopricks should be placed in the hands of the present Ministry. He (Lord Redesdale) was far from entertaining any such political jealousy; but the House would have to consider how far the political argument bore upon the subject. It was dangerous to admit the principle of separate dealing with the question, therefore, as it admitted of the imputation of motives. The noble and learned Lord (the Lord Chancellor) had said that there was no objection to making an alteration in the wording of the measure which would make the Bill express that the sees only became vacant on the resignation of the two right rev. Prelates; and, therefore, he (Lord Redesdale) would make no remark on that point further than to observe, that the admitted necessity of the alteration showed the misfortune of introducing a measure of such importance in the hurried manner in which this Bill had been

Lord Redesdale

brought forward. There were one or two points of the measure which he would rather avoid discussing; but those points deeply affected the interests of the Church, and he could not allow any personal sensibility to preclude him from speaking out upon these matters. He entertained the highest respect for both the right rev. Prelates whom this Bill affected. He was on terms of personal acquaintance with both. He had a more intimate acquaintance with the Bishop of London, and no person could entertain a higher respect for that Prelate than he did. He was aware that no Bishop who had ever held the see of London had devoted the whole of his energies more unceasingly or with more success to the duties of the episcopate than had the Bishop of London. He believed that no Prelate who had ever held the see of London had to a greater extent promoted the spiritual good of those whom he presided over than the present Bishop. But this only induced him (Lord Redesdale) to express the deeper regret at the circumstances which had attended that Prelate's proposed resignation; and he believed that if all the facts were brought under the Bishop's consideration, and that he were afforded an opportunity of deliberately giving them his attention, he would, after having done so, regret the fact of the present Bill being on their Lordships' table as much as he (Lord Redesdale) should himself. He would shortly direct their Lordships' attention to what had already been done by way of legislation on the subject of resignations of church livings. Before the time of the Reformation, arrangements with regard to the resignation of spiritual benefices were common; and those arrangements included the granting of pensions or allowances out of the incomes of the livings. These arrangements gave rise to very great abuses; and by an Act passed in the 26th year of the reign of Henry VIII. it was provided that unlimited pensions should no longer be granted, and reservation was made that the amount of pension should not exceed one-third of the amount of the benefice. Notwithstanding this enactment, abuses were, he presumed, still found to arise; for in the 36th of *Eliz.* an Act was passed which rendered the making of any arrangements at all of that kind unlawful, that Act declaring that all such arrangements with respect to benefices should be considered corrupt in the eye of the law, and imposing a penalty amounting to double the

amount of the stipulated pension upon any party negotiating to receive such pension. Now, their Lordships would bear in mind that that Act was in existence at the present time, when the negotiation with respect to the sees of London and Durham was being carried on by the Government, notwithstanding that such negotiations were in direct violation of it. If they intended to do away with the statute of Elizabeth they ought to do so by a general Act declaring that, notwithstanding that enactment, such negotiations should be legal; but so long as the statute of Elizabeth existed a negotiation like that the subject of this special Bill was illegal. For this reason he thought, then, that their Lordships ought to discountenance the proposed measure. Another objection he had to the Bill—and it was one which it was extremely painful to touch upon—was, that he thought the amount of the retiring pensions excessive. He said this with extreme regret; but they should remember that they were establishing a precedent, and one which was, in his opinion, an objectionable and dangerous one. Let them recollect what arrangements of this kind ought to be under any circumstances. They ought not to be in any way in the light of bargains. There ought to be nothing of this kind. Men should not say, "Here is a see; I will resign it if you give me so much. I will not if you don't." The simple arrangement ought to be that a Bishop wishing to resign his see, should say, "I am incapable of longer performing the duties which my office imposes upon me, and I wish to resign. Give me enough to live upon—that is all I require." If it were conceded that such should be the guiding principle in these arrangements, then the question arose, upon what scale ought those retiring pensions to be regulated? Surely there ought to be some regulated scale. What scale had been adopted in the cases now before the House? Why, the smaller of those proposed pensions was larger than the income considered necessary for a Bishop in the full performance of his duties. The smaller pension—that proposed for the Bishop of Durham—was £4,500 a year, while the larger was £6,000. Yet, except in the case of the Prelates who might be called the three premier Bishops, the income of the acting Bishops ranged from £4,200 to £4,500 a year, none of them exceeding the latter sum. He had no hesitation in saying that this arrangement was of the character of

a bargain and partook of a simoniacal character. He thought, therefore, that he was justified in saying that the scale of pension, for which this Bill would set a precedent, was an objectionable one, and that, if adopted, it would throw difficulties in the way of future arrangements. On the whole he believed that it was most desirable that this Bill should be withdrawn. The discussion of this measure in detail, though most painful to their Lordships, might in its results prove most useful; but he thought that the principle of the present Bill could not be defended, and under these circumstances he felt it his duty to move that it be read a second time that day three months.

Amendment *moved*, to leave out "now," and insert "this day three months."

THE EARL OF CHICHESTER said, he could not do justice to his feelings without adding his testimony to the merits of the right rev. Prelate the Bishop of London, to his great ability, his great learning, and the urbanity of conduct which he had always displayed. He had had personal and official communication with him in many transactions, and he was therefore competent to bear witness to his worth as a Christian Minister, and the liberal and munificent manner in which he dispensed the large income of his see. It was not beyond the truth to say that the whole of that income, above the necessary provision for his family, had been devoted to the Church. He might speak in the same terms of the liberality of the other right rev. Prelate, who—though it was no doubt true, that he had received a larger income than had been contemplated by the Act of Parliament—had not only paid over £2,000 per annum to the Ecclesiastical Commissioners, for the erection of parsonage-houses for the poorer clergy, but had expended the rest of his surplus income, as he (the Earl of Chichester) happened to know, for the benefit of the Church and charitable institutions in his diocese. When the future Bishops should be appointed under the regulations of the Act of Parliament, the immediate losers would be the poorer clergy, and charitable institutions of the two dioceses. With respect to the Bill itself, he should only observe that he regarded the retiring allowances proposed to be granted, as only reasonable and proper. He would now make some observations on the objections of his noble Friend opposite. His noble Friend had first stated that the only proper

remedy for such cases was a general measure. Now, he (the Earl of Chichester) agreed that if it were possible it would be better to pass a general measure to regulate the retirement of Bishops. This would be much more satisfactory. But a general measure not only involved difficulties requiring mature consideration, but from the nature of the case could not apply to the exceptional circumstances of the present retirement. Other retirements ought not to be made on the same terms, because, in a general measure, it would be most unjust to the Church to propose to make such large retiring allowances to those Bishops whose incomes had been regulated by Act of Parliament, and still less to Bishops appointed after the proposed measure. In these cases the allowances should be on a proportionately reduced scale. The main objection to the introduction of a general measure at this time was, that there would be no time to discuss it. Some persons wished that a general Act should be passed, rendering retirement in certain cases compulsory. It was argued that a Prelate too infirm to perform his duties might be the very last to be conscious of those infirmities. Now, he thought compulsory enactments open to great objection. Any Bill which should fix the retirement of Bishops without their own consent required that mature consideration which could not be given to it during the present Session. Upon what principle would it be applied to existing Bishops? The noble Lord had referred to the statute of Elizabeth which prohibited all trafficking in matters relating to benefices in the Church; but that statute had no reference to the present case—it referred only to negotiations between persons holding benefices and their proposed successors. But in the present instance there had been no trafficking, nor even negotiation between parties standing in that relation to each other, nor even between the two Bishops and the Government. He (the Earl of Chichester) had been the organ of communication between one right rev. Prelate and the Government. The right rev. Prelate communicated to him that he felt himself incapacitated from performing the duties of his office, and feared he should never be able to resume them, and was therefore desirous of retiring upon an annuity of £6,000. That was the simple statement made to him, which he communicated to the Government. He believed that the

The Earl of Chichester

other right rev. Prelate had made a precisely similar communication. With regard to the Bill before their Lordships, considering the meagre pay received by so many clergymen, he should not have felt inclined to approve of the arrangement as a prospective example; but, when they remembered that these two Prelates had entered into possession of these large incomes of £18,000 and £14,000 a year without any notice of their retirement being possible—that they were, in fact, entitled to consider those incomes as secured to them for life—he thought anything short of the pensions now proposed would be unjust. The sums proposed would be paid without any diminution of the income of their successors, and there would moreover be a balance over of £4,000 a year at the disposal of the Ecclesiastical Commissioners. In conclusion he might be allowed to remind their Lordships of the very great danger which would arise from a postponement of this measure. Both of these right rev. Prelates had, under their own hands, informed the Government that they were of opinion that they were disqualified from performing their duties as Bishops, and that they were anxious to retire. Would it be right to leave the Church in the two important dioceses of London and Durham, under the care of Prelates who had themselves owned that they were unfit to hold those two important posts? When the Bill came into Committee, he should probably bring an Amendment under the consideration of their Lordships for the purpose of facilitating the future decision of the see of London, a measure which he understood had been for some time under consideration. He might also propose some alteration in the mode in which the sees should be declared vacant; but he should certainly give his vote in favour of the second reading of the present Bill.

THE DUKE OF CLEVELAND said, he was surprised that some general measure on this subject had not been brought in before. He thought there could be no doubt that, when Bishops were incapacitated by infirmity or illness from attending to their duties, they ought to be enabled to retire, and ample provision ought to be made for them on their retirement. The only question was, what should be the amount of their pensions? Now, he was quite aware that this question was surrounded by great difficulties, but in his opinion the pensions should certainly vary

in proportion to the value of the sees, and to the incomes which the right rev. Prelates had enjoyed. With regard to the Bishop of Durham, he could say, from long residence within that see, and from his own personal knowledge, that a better, a more conscientious, a more charitable, and benevolent Prelate never sat on the episcopal bench; and, so far from agreeing with the noble Lord who had proposed this Amendment, that the pension proposed in his case was too much, he (the Duke of Cleveland) thought it was too little. Although, therefore, he did not object to this Bill, and meant to vote for the second reading, he should certainly move in Committee to raise the pension to the Bishop of Durham from £4,500 to £6,000 a year. When first raised from the see of Chichester to that of Durham, the latter bishopric came under the operation of a new law. It was then suggested that the Bishop of Durham should only have £8,000 a year, but the choice was left to him as to whether he would have a fixed income of that amount, or whether he would keep the revenues of the see, paying to the Treasury the sum of £11,500 a year. The Bishop knew nothing personally of the see or its revenues, but he took an opinion on the subject, the result of which was that he decided to keep the revenues of the see in his own hands, running the chance of what they might amount to for the future, and paying to the Treasury the sum just mentioned. Fortunately for him the revenues of the see increased instead of diminishing; but had the reverse been the case, his income would have been much less than the proposed fixed amount (£8,000). The bargain, therefore, was a perfectly fair one, and was one with respect to which the right rev. Prelate ought not to be assailed, as he had been in the public press, as well as in the other House by the hon. Member for Stroud (Mr. Horsman). For his own part, he thought that the best plan to pursue would be to place the Bishop of Durham, as regarded a retiring pension, on the same footing as the Bishop of London, for he thought that the one Bishop was as much entitled to a pension of £6,000 a year as the other. It was better in itself to act liberally than to act illiberally, and from the very advanced age of the Bishop of Durham, it was evident that the difference in amount could not be a matter of any great importance. Feeling as he did that both Bishops ought to be placed on the same footing, he would, if he found that

he met with any support, submit a Motion to that effect in Committee.

THE BISHOP OF EXETER said, that it was painful to him to have to oppose this Bill. The making a proper provision for the retirement of Bishops was an object which met with his earnest approbation; but he wished that the proposition had been made in another form. He did not then object to the retiring pensions, as proposed—on the contrary, they had his approval—but he must express his surprise that a measure of this kind, affecting the best interests of the Church of England, should have been brought forward without any communication with the Episcopal bench. He said this, because he was quite sure that neither the most rev. Prelate nor any right rev. Prelate would have given their consent to the measure in its present form. That some measure allowing retiring pensions to Bishops should be passed would meet with the approval of every, or almost every Member of their Lordships' House; and he was quite sure that none of the Members of the Episcopal Bench would desire to receive any unreasonable amount of retiring pension when he should become unable to fulfil his episcopal duties. He (the Bishop of Exeter) rejoiced to think that there was already in existence a scale of retiring allowances which might very fairly be applied to retiring Bishops—he meant the pension allowed to Judges under similar circumstances. Certainly their allowances ought not to be less than those given to Judges; and he would carry the matter out, and would say that a difference ought to be made in favour of the two Primates. He thought it would not be unreasonable to make their retiring allowances the same as that of Lord Chancellors.

But while he said this, he must beg to be understood, as altogether dissenting from the notion; that the consideration of money was the main principle involved in the present question. Supposing the Bill to be made unobjectionable, as to the amount of pensions to retiring Bishops, he should still object to it, in its present form, on other and far higher grounds. He objected to it, because of the manner in which the office itself of Bishop was treated by the Bill. That office was there dealt with as if it were the mere creature of the State—it was placing the episcopacy of our Church on the same level as the Episcopacy—if Episcopacy it could be called—of some Protestant State in Germany.

He must also say, that even if this were not the case; if not only the amount of pension assigned to the two retiring Bishops were unexceptionable, but also if in other particulars in respect to them the Bill were satisfactory, he should have much preferred a general measure which should meet the case of all retiring Bishops, to a Bill which was directed only to meet a specific case. Indeed, he had heard no reason why this Bill should not be postponed until such a general measure could be introduced. Sooner or later such a measure must be provided for the case of all Bishops, and, therefore, he thought that the Bill to be introduced should have provided generally for the necessities of the case.

He felt that the Bench of Bishops had some right to be astonished and dissatisfied with the course pursued by the Government in respect to this Bill. The Bill was brought in on one night, when scarcely a single Peer was present, and was read a first time; and the second reading was fixed for the night following. Fortunately the interposition of a noble Lord, who moved the rejection of the Bill, rescued them from that difficulty. But why should not the whole Bench of Bishops have been allowed full opportunity of considering a matter so intimately connected with the interests of the Church? The Bill had only been presented on Friday last—and they had had no opportunity of consulting on a measure so novel, and so deeply affecting the interests of the Church. Never before, in the history of this country, had a measure been introduced by which Parliament proposed to deal in so summary a manner with the affairs of the Church.

But the objections to the measure were, to his mind, insuperable. It was in direct opposition to one of the most sacred principles of the Church. A Bishop had no right to resign, and up to that moment had never pretended to resign, except with the authority of him from whom he had received his mission to exercise his office; nor could any other accept his resignation except the ordinary who had given the mission. In the case of the Bishop, that ordinary was the Archbishop; and, in like manner, no clergyman could resign his cure of souls except into the hands of the Bishop, who was bound to consider all the circumstances of the resignation as was the Archbishop in the case of Bishops, before he gave his sanction to it. This was the rule equally of the canon and the

The Bishop of Exeter

common law, as he would show the House by reading the following extracts from *Gibson's Codex*—

"1. Resignation must be made to one who hath power to admit it—*Renunciatio fieri debet in manus ejus qui habet potestatem eam admittendi*—and that is, in general, to the person who granted admission to the benefice resigned; and, therefore, donatives are not resignable to the ordinary, but to the patron, who hath power to admit. But there is one exception as to the Queen. If it be true doctrine that deaneries of the Queen's gift may well be resigned to the Queen, which is much to be questioned, wherever there is a Bishop, the immediate superior; because, however, the Crown hath the right of nomination, yet legal possession is not to be obtained—nor by consequence to be resigned—but by canonical methods.

"2. Resignation can only be made to a superior. This is a maxim in the temporal law; and is applied by Coke to the ecclesiastical law, when he says that therefore a Bishop cannot resign to a Dean and Chapter, but it must be to the metropolitan, from whom he received confirmation and consecration."

He cannot, therefore, resign during the vacancy of the metropolitan see—when the Dean and Chapter are guardians of the temporalities—but must wait for the appointment of the new Archbishop.

"3. Resignation must be made in person, and not by proxy.

"4. No resignation can be valid until accepted by the proper ordinary. That is, no person appointed to a cure of souls can quit that cure, or discharge himself of it, but upon good motives, to be approved by the superior who admitted it to him—for it may be that he would quit it for money, or to live idly, or the like. And this is the law, as well of the State, as of the Church."

The instance of Archbishop Grindal had been referred to, as a precedent for these political resignations. But that instance, properly considered, was conclusive on the other side; it showed, that an Archbishop could not resign to the Crown; for the Crown, although his immediate superior in all causes spiritual, was not at all concerned with the exercise of his authority in pure spiritualities. Queen Elizabeth required Archbishop Grindal to resign; he himself was eagerly desirous of resigning; but it was found, that neither the requisition of the Queen, nor the wish of the Archbishop—nor both together—were sufficient to effect their purpose. Whitgift, the designated successor, who was much better versed in the constitutional law of the Church, than either the Queen or Grindal, absolutely refused to accept the metropolitan see during Grindal's life, and his objection prevailed. Grindal died Archbishop of Canterbury. But the present measure sets at nought all these considera-

tions, and is utterly inconsistent with the constitution of the Church.

This matter of resignations was one of the most embarrassing things in administering the affairs of the Church, for there was too much reason to suppose that they were often founded on corrupt bargains, and he had, for himself, always exercised the greatest caution in accepting resignations; but this Bill, he feared, would be a declaration of the right of all ecclesiastics to make similar bargains. He was quite sure that the right rev. Prelate (the Bishop of London) had never seen this Bill—if he had, he would never have consented to it—he would have seen at once that it showed a determination to set at nought all the rules and principles of the ecclesiastical law, and to stretch to the utmost the interference of the State in the affairs of the Church. For what reason could be given for permitting Bishops to make bargains for resignation, which would not be equally applicable to Rectors, Vicars, Incumbents of every kind? To such a principle he (the Bishop of Exeter) had the very strongest objection, and would resist it to the uttermost. If a Rector had entered into any such bargain he would have rendered himself liable to ecclesiastical proceedings. No doubt it was desirable to provide for such cases as those of the two right rev. Prelates to whom this measure referred; but then the Legislature should proceed with a due regard to Church principles.

Then, as to the haste with which the present measure had been introduced—the wish of the two Bishops had not been known more than three weeks, and the Government had taken only a fortnight to decide on and draw up the present measure. But, what was the necessity for pressing on the measure with such haste? There was no necessity for passing it before the close of the present Session, because the season during which the Bishops had active duties—such as confirmations—was the earlier part of the year; in the latter part of the year, the duties of Bishops ordinarily consisted of such matters or ministrations, as could be performed by Commission. And, then, if the matter were deferred to next Session, the Government would have time to consider the best course to adopt—not merely to provide for the present circumstances of the sees of London and Durham, but the circumstances of the Church generally in this matter—by devising some measure which

should not be open to the objections of the present Bill, but such as might meet the exigencies of the case, without violating the recognised principles of the Church. He would not now recommend any particular course; but he would remind their Lordships that the Church itself was not without some provision for cases of this kind. From the earliest ages coadjutor Bishops had been appointed, who, taking their title from some town in the diocese, and with or without the right of succession, administered the affairs of the diocese, by virtue of a Commission from the Bishop—but the great principle of the canon law was, that the Bishop of the diocese retained, during life, full possession of his dignity and office. He, therefore, earnestly besought their Lordships, for the sake of the Bishop of London himself—not to assent to this measure. He (the Bishop of Exeter) was sure that it would embitter the last days of that venerable and admirable man—whose life had been spent, as it would be vain to expect from any probable successor—to find that the principles of the Church had been set aside, in order that he might receive this pension on his retirement.

THE EARL OF HARROWBY said, that he thought the apprehensions of the right rev. Prelate were very much exaggerated. At least, there would be no difficulty in modifying the Bill so as to provide that the resignation of his see by a Bishop should be into the hands of his Metropolitan. Until the Act of Elizabeth made it unlawful, it was perfectly lawful for a Bishop to resign his see and retire upon one-third of its emoluments; and in the present Bill Government were only going back to that time, and, in two specific cases applying that rule which had been until then general. The dioceses immediately under the consideration of the House were of so great importance that they ought not for a moment to be left without episcopal superintendence, and when the right rev. Prelates who now presided over them came forward spontaneously and declared their inability to perform the duties of their office, he thought no time ought to be lost in providing their successors. If a Commander in Chief were to make a similar statement, and tender his resignation, would there be a moment's hesitation as to what ought to be done? Would they not say that although they were opposed to the principle of resignation in the army generally, yet that here was a particular case

in which it was for the good of the country it should be allowed. If that were the case as regarded secular matters, how much more so ought it to hold in ecclesiastical affairs? In conclusion, he hoped their Lordships would not be led away by the terror of the Church being endangered, but would consent to read the Bill a second time, as it could, in Committee, be amended to meet the views of the right rev. Prelate.

THE EARL OF DERBY said, he had no hesitation with regard to the vote which he was about to give in favour of the Amendment that the Bill be read a second time that day three months; but he should give it with some regret, because of the possible inconvenience that might arise from the postponement of legislation, owing to the incapacity of these right rev. Prelates who presided over these important sees; because he was not unfavourable to the general principle of retiring provision, whether of Bishops or the inferior clergy; and because the discussion must be painful to the feelings of two right rev. Prelates eminently distinguished for their abilities and private virtues. The objection upon which he rested his vote was not that of the right rev. Prelate (the Bishop of Exeter), that the arrangement was in opposition to the doctrine of the Church, although he felt the weight of the right rev. Prelate's arguments, and was bound to say the Bill was framed in entire disregard of all Church principles and Church discipline. His objection was, that they were dealing exceptionally and with individual cases, where they should deal generally and upon broad principles. As yet he had not heard any sufficient reason to satisfy him of the propriety of the course pursued by Her Majesty's Government, and if he wanted proof of the extreme inconvenience of that course it was furnished by the speeches in defence of the Bill, which turned the whole of this important discussion into the consideration of the personal and individual merits of these two Prelates, the sacrifices which would be made by them, and the reasonableness of the terms of the bargain proposed by the Government. That a great question involving important points of Church discipline should be so dealt with afforded one of the strongest objections to this mode of legislation. But his noble Friend who had just sat down justified the dealing separately with these two cases upon the grounds of emergency and special circumstances.

The Earl of Harrowby

With regard to emergency, although he did not know when the offer was made by the two right rev. Prelates, he believed the health of the Bishop of Durham and the health of the Bishop of London had for some weeks, if not for some months, been very much the same. He was reminded that six months ago the Bishop of Durham, so far from discharging the duties, handed over everything to the Ecclesiastical Commissioners.

THE ARCHBISHOP OF CANTERBURY said, he received a communication from the Bishop of Durham in November last, stating that he was anxious to resign his see.

THE EARL OF DERBY: Then, as far as the Bishop of Durham was concerned, no case of emergency could be raised; for, if communication of his readiness to resign was made to the Government in November, they had full leisure to consider whether they would introduce any Bill, or a special Bill, or a general Bill. But, if he were not mistaken, the subject of a general Bill had been under the consideration of Her Majesty's Government. This question had not taken them by surprise—they had been looking for it; they had had a proposition upon the subject of a general Bill early in the Session, but they preferred to wait for an emergency, which in one case, at all events, was not unforeseen. But it was said there were special circumstances, and they could not deal with these right rev. Prelates as they could with any others who might succeed them. Why not? He admitted that they could not compel a person to resign on any terms they fixed; but he did not see why they should not deal with the case of the Bishops of London and Durham as they would with the holders of other offices, and he must say the illustration of the noble Earl (the Earl of Harrowby) upon that point was rather remarkable. The noble Earl asked whether it would be decent, in case a Commander in Chief became incapable to perform the duties of his office, to bargain very closely as to the sum of money for his resignation. Unfortunately, by a dispensation of Providence, within a very short time the case had occurred. The Commander in Chief found himself incapable of performing the duties of his office; but he did not go to Her Majesty and bargain what amount he should receive for resigning it—he at once resigned his office, and did not ask for any allowance for doing so. There had been a long discus-

sion as to the reasonable amount of the retiring allowances, but he passed over whether it was a reasonable bargain. His objection was to any bargain. The law of England had for centuries prohibited anything in the way of traffic and bargain for the resignation of any office in the Church, and if it were not so there would be no necessity for this Bill. They were introducing an exceptional case for the purpose of violating the law, and all the arguments which were used against the system of special legislation in divorce cases applied precisely the same to this case, where, for the benefit of two Prelates, they were giving a licence to them to violate the fundamental law of the land. It was denied that there was any corruption in the matter. No one imputed corruption in a sense to make it dishonourable, but only as it was corrupt to require consideration of any kind for abandoning a spiritual office. He had no doubt there were many cases in which it would be generally advantageous for an aged clergyman to retire, on receipt, by arrangement with his successor, of a portion of the income; but the law said that was simony, and the Bishop would not listen to such a suggestion. The same might be said in the case of these Bishops as in the case of any private patron. The word "traffic" had been objected to. He believed his noble Friend the Chairman of the Committee did not use the word "traffic," but the word "negotiation." The noble Earl (the Earl of Chichester) said there was no negotiation. There was no protracted negotiation, because the first terms that were offered were accepted; but, in the sense of conditions laid down on the one side, and accepted on the other, for the purpose of doing a certain act, negotiations were entered into by the Bishops and assented to by the Government, and that description of negotiation and traffic was strictly prohibited by the law of England. It was said that it might be very desirable to have a general measure; but that this was a peculiar case in which no additional charge would be thrown upon the public funds. It appeared to him that if that argument were admitted it would interpose a most important difficulty in the way of that general measure which all desired to see adopted. If it was to be said that it was only in cases where there was to be a prospective reduction of income, and where there would be consequently a surplus from which to provide retiring pensions,

that introduced an insuperable obstacle to the adoption of a general measure. He thought, therefore, that this mode of dealing exceptionally with individual cases in violation of the law was objectionable in principle, and that any violation of the law of England was a much more serious matter than any possible inconvenience which might result from delaying for a few months a measure that would perhaps eventually be attended with some advantage. For those reasons, although favourable to the principle of retirement upon fixed rules, and although he entertained the highest respect and veneration for the two right rev. Prelates whose cases were immediately connected with the measure, he could not consent to the adoption of the Bill, which was nothing less than a violation of the great fundamental principle of the law of the land.

LORD LYNDEHURST said, that he rose simply to answer a question which had been put to him by the right rev. Prelate (the Bishop of Exeter). The right rev. Prelate said that resignation must be made to a superior, and that, as there was no superior to an Archbishop, an Archbishop could not resign. He (Lord Lyndhurst) had ventured to oppose that doctrine, and had said the resignation in the case put must be to the Crown. He had turned to the authority of Blackstone, and he found that that commentator stated that "resignation must be made to some superior. Therefore a Bishop must resign to the Metropolitan; but the Archbishop can resign to none but the King himself."

THE ARCHBISHOP OF CANTERBURY said, he was equally sorry and surprised to find the Bill before their Lordships opposed by many noble Lords who were known to be friendly to the Church and to the interests of religion; yet he was at a loss to know what could be less consistent with those interests than that two such dioceses as London and Durham should be left for an indefinite period without efficient episcopal control and superintendence. Those dioceses comprised a seventh part of the population of England, and the population of one of them, at least, would be allowed to be of a most important character; and the Bill now proposed was intended to remedy an inconvenience which, whatever attempts had been made to extenuate the evil, were greatly to be deprecated—for the most important and most anxious duties of a Bishop were those which could not be delegated to any one else—and to remove a

reproach which would otherwise lie heavily on the Church. Those of their Lordships who knew the character, the sensitive character, of the Bishop of London, would agree with him that nothing would be more certain to aggravate the pressure of disease, to embitter, if not shorten, what might remain to him of life, than the consciousness that he was accountable for duties without the power of performing them—duties of which he knew and had proved the importance and the value. It was from that responsibility that he sought to be relieved; and it would be a bad return for a life spent, if ever life was so spent, in the service of the public—he said the public, for their Lordships knew that his services were no less valuable in that House than in the Church—it would be an ungrateful return for a life so spent if he were now denied that retirement which his health required, and which he had so painfully earned. The resignation of a Bishop, for good and sufficient causes, was an acknowledged part of the constitution of the Church, although it might be that no case of such retirement had occurred since the Reformation. In regard to our own country, Lord Coke laid it down as a rule, which was confirmed by Gibson, Burnes, and Blackstone, that a provincial Bishop resigns to his Metropolitan. It was, indeed, a mistake—he said it with all deference—to omit the mention of this legitimate method of resignation in the Bill; but the noble and learned Lord had promised to correct that defect in the Committee. Accordingly such resignation was provided for on the creation of Bishops for the Colonies, and there were now in this country two ex-Bishops—Bishops without sees, having resigned them into the hands of their Metropolitan the Bishop of Calcutta. He (the Archbishop of Canterbury) had recently accepted from the Bishops of New Zealand and of Toronto the resignation of a portion of their dioceses, intended to be assigned to other sees. It had been thought, as he understood, that the object of this Bill should rather have been attained by a general measure, regulating the conditions on which Bishops should resign their sees, than by a special Act for a single purpose; and, undoubtedly, a general measure of the kind was highly desirable, defining the condition on which a superannuated Bishop might resign his charge. But all would at once perceive that no future Bishop could ever be in the situation of the two Prelates who were the subjects of this

The Archbishop of Canterbury

Bill. No future Prelate could ever have a life interest in an income like that which those Bishops were ready to resign. The amount of retiring salary had been objected to by the noble Lord who moved the rejection of the Bill. If the Bishop of London had thought himself at liberty to use his episcopal income for the purpose of making to himself a fortune or of aggrandizing his family, he might easily have become independent of any retiring salary. He (the Archbishop of Canterbury) might say, without exaggeration, that if that Bishop had spared from his public and private charities the half of what he has, in fact, employed in supplying the spiritual destitution of his vast diocese, he might have provided against the present emergency. He hoped their Lordships would forgive the right rev. Prelate if he had been more careful to provide for his diocese than for himself or those who may surround him. He had thus briefly stated the reasons why he should give his cordial concurrence to the Bill, which he trusted would receive their Lordships' sanction.

THE DUKE OF NEWCASTLE said, he should have contented himself with a silent vote upon this occasion; but for some remarks that had fallen from the most rev. Prelate who had just sat down. He would, in the first place remark, that throughout the discussion there had been a general admission of the principle of resignation, and it was therefore unnecessary for him to say one word in its favour. The most rev. Prelate had said that the present cases could never again occur, as the two particular Bishops were in a position in regard to income in which none of their successors would ever be placed. The fair inference from that argument was, that if this Bill were adopted, there could never be any other similar measure upon the same principle upon which this would have been passed. He feared it was too late to hope to pass a general measure this year; but, great as were the evils of continuing the present arrangements in these two dioceses, he would rather do that than expose every other bishopric in the kingdom to the risk of remaining without such a remedy as it was now sought to apply exceptionally. Sorry as he was to say anything which might hurt the feelings of any person, in this matter it was necessary to lay aside delicacy—and it must be notorious to the greater part of their Lordships that Dur-

ham and London were not the only two dioceses in which a similar remedy was necessary. Why bring in a Bill to relieve the Bishops of London and Durham from their functions, and yet not deal with two other Prelates who were at this moment in precisely the same position? He should, perhaps, be told, "because they have not resigned." But why had they not resigned? They waited of course for a general measure on this subject, knowing perfectly well that a Bill would not be brought in specifically to meet their case, because the House of Commons would not grant pensions out of the Ecclesiastical Funds. The Government, however, were no doubt in hopes that the House of Commons would pass this Bill, because, though the proposed pensions were to be taken nominally and ostensibly from the Ecclesiastical Funds, those funds would not in reality be diminished, because by the arrangement which would be made a larger sum would be paid in than would be taken out. The question, then, was reduced entirely to one of pounds, shillings, and pence, and he looked upon the present proposal as one degrading to the Church, injurious to the Bishops, as well as to the various dioceses, and one which would present insuperable obstacles in the way of future legislation. The Archbishop of York and the Bishop of Norwich were, it was well known, in the same position as the two Prelates, who would be affected by this Bill. Whatever might be the fate of this measure hereafter, let it not be said that those who opposed it were responsible for the position of the two dioceses he had just mentioned. On the contrary, the responsibility would rest with those who brought forward such a Bill instead of adopting some scheme of legislation by which the case of all would be equally covered. He would not argue the point as to whether the proposed pensions were too much or too little. The question involved was, he thought, a very much larger one. He looked upon it as essential to the interests of the Church that power should be given for Bishops to resign when no longer qualified to discharge the duties of their office, and he believed their Lordships would be throwing great obstacles in the way of such a provision if they passed this measure into law. Although he should give his vote with great reluctance in as far as it would affect these two dioceses; yet, looking at the whole question from a larger point of view, he hoped their Lord-

ships would refuse their sanction to the second reading.

LORD DENMAN thought it would be much fairer to the Bishop of London, and more grateful to the feelings of that right rev. Prelate, to reject this Bill at once. The discussion of this question in the House of Commons could not be otherwise than painful to that right rev. Prelate, who, he (Lord Denman) believed, would find himself able to resume his duties. On broad grounds, he was of opinion that the country would receive a general measure with much greater satisfaction than an exceptional one.

THE BISHOP OF OXFORD said, the ground upon which his vote would be given against the passing of this Bill was as nearly as possible what had been so well stated by the noble Duke who had just sat down and by the noble Earl opposite (the Earl of Derby). It was not because he underrated the evil which it was now sought to remedy; but he felt deeply that some measure was needed to meet the general evil which now existed in the Church arising out of the impossibility—for a moral impossibility it was—for those who held the episcopal office to lay that office down if they felt themselves unable to discharge their duties. There were different ways in which this evil might have been met. It might have been met by adopting the ancient practice of appointing coadjutor Bishops, or by proposing a general Bill which would enable Bishops to resign. Let their Lordships observe the greatness of the evil, in one point, which had not been noticed in the discussion. The amount of work in any office was naturally fixed, to a great degree, as regarded him who succeeded to that office, by the amount of work performed by him who retired; and as the present system prevented Bishops from resigning when no longer qualified properly to discharge their episcopal functions, the consequence was that the whole scale of episcopal duties was lowered by the continuance of this evil. Now, this being the case, their Lordships were asked to apply a doubtful palliative to those cases which, if you did not apply this palliative, might lead to the remedy of the whole system. The universal course of legislation in both House of Parliament showed that it was only when a particular evil arose which was too great to be borne that a general measure was passed, dealing with the general interests involved; and there were no such certain means of prolonging a bad system as by palliating those

particular instances which would justify the Government in dealing with the evil as a whole. With regard to his right rev. Friend the Bishop of London, that Prelate, during the time he had presided over his present see, had displayed a singleness of heart, an ability, a conscientiousness, and a power such as had been rarely exhibited on the Episcopal Bench; and it was when you found such a man, by God's visitation, rendered unable to discharge his duties, and willing to make provision for the discharge of those duties by another, that there arose one of those fortunate opportunities which would induce a conscientious Government to say, "Now is the time for breaking through the difficulties which will always beset such a question, and for passing a general measure to meet the evils now complained of." Could their Lordships doubt that, if this Bill were thrown out to-night, a general measure would be brought forward next Session? On the other hand, did their Lordships believe that if they passed this Bill such a measure would be introduced? Leave this particular evil unredressed for a few months, and what was it—great as it might be—compared with the general evil of placing the Bishops in such a position as to be unable to find assistance or to resign when age or infirmity told upon them? Let their Lordships pass this measure, however, and they would put off indefinitely the cure of this evil. For his own part the only object which he had in view was the redress of a great public evil, and he might inform their Lordships that at the commencement of the present Session. Her Majesty's Government had been placed in possession of a general scheme which would have applied to the general evil, and which would have included the two cases for which it was now proposed to legislate. That a general scheme was necessary there could be no doubt. He had himself received a letter from a right rev. Brother saying that he would gladly follow the example of the Bishops of London and Durham, if any provision, however slender, could be made for him. He asked their Lordships, therefore, as there was a great evil to be remedied, and inasmuch as the remedy for that evil was not withheld by those who opposed the present Bill, but by those who had neglected to bring in a general measure, to pause before agreeing to a course which would render it next to impossible to introduce a general scheme at any future period. As long back as last

The Bishop of Oxford

November the Archbishop of Canterbury had pointed out to the Government the necessity of a general measure; but, notwithstanding the representation, it was only at the close of the Session that Her Majesty's Government introduced a particular Bill, and one of which the great majority of their Lordships had not considered the bearings. He begged their Lordships, therefore, to take time, and to hear the case fully discussed before they formed their judgment, and not to adopt a plan which in his conscience he believed would prevent a satisfactory solution of the difficulty which existed, but to wait until the case was fully before them, and then conscientiously, deliberately, and decidedly to adopt means to remedy a great wrong.

On question, that "now" stand part of the Motion, their Lordships *divided*:—Content 47; Not Content 35: Majority 12.

List of the CONTENT.

ARCHBISHOPS.		Somers
Armagh		Stradbroke
Canterbury		VISCOUNTS.
DUKES.		Falkland
Argyll		Middleton
Cleveland		Sydney
Wellington		BISHOPS.
MARQUESSSES.		Bath and Wells
Breadalbane		Carlisle
Camden		Ripon
EARLS.		BARONS.
Clanricarde		Byron
Lansdowne		Calthorpe
Westminster		Camroys
EARLS.		Campbell
Beaumont		Churchill
Chichester		Foley
Clarendon		Glenelg
Darnley		Kinnaird
Effingham		Manners
Essex		Monteagle
Granard		Mostyn
Harrowby		Overstone
Kingston		Panmure
Scarborough		Rivers
Shaftesbury		Stanley of Alderley
Shelburne		Wrottesley

List of the NOT CONTENT.

DUKES.		Desart
Montrose		Donoughmore
Newcastle		Galloway
Richmond		Harrington
Somerset		Lucan
MARQUESSSES.		Malmesbury
Bath		Mansfield
EARLS.		Powis
Aberdeen		Romney
Beauchamp		VISCOUNT.
Cardigan		Dungannon
Delawarr		BISHOP.
Derby		Oxford

BARONS.

Blaney	Lyndhurst
Colchester	Redesdale
Colville of Culross	Ravensworth
De Lisle	Sandys
Denman	Southampton
Dunsandle	Suffield
Grantley	Wynford

Resolved in the Affirmative.

Bill read 2^a accordingly, and committed to a Committee of the whole House on Thursday next.

PROTEST.

Die Martis 15^o Julii, 1856.

Against Second Reading of The Bishops of London and Durham Retirement Bill.

DISSENTIENT—"1. Because it is a most objectionable course of legislation to make laws which shall affect only particular cases, unless those cases are of so special a nature that but few similar instances can be expected. But the inability of Bishops to discharge the duties of their high office by reason of old age or permanent infirmity of mind or body is notoriously a matter of very frequent occurrence, and ought therefore to be provided for, not by private Acts affecting only certain individuals, but by some general law applying to all similar cases.

"2. Because in the Bill now before the House, one of the most ancient and essential principles of the constitution of the Church is openly violated by declaring by Act of Parliament that the Sees of London and Durham 'shall become vacant,' without any reference whatsoever to the obligations of the Bishops of those Sees not to resign the high office in the Church of Christ to which they have received mission from their several Metropolitans, except into the hands, and with the express acceptance, of the said Metropolitans after duly considering the reasons for such resignation.

"3. Because the Bill proceeds on a recital which implies, on the part of those Bishops, forgetfulness of the Church's law in respect to resignations made on any compact for money, or emolument, or advantage of any kind. The statement of this reason must not be construed into the expression of belief of the entire accuracy of that recital; on the contrary, justice to those venerable Prelates requires us to believe rather, that the persons who drew the Bill failed to state correctly the precise terms in which the said Bishops represented to Her Majesty their wish to retire.

"4. Because an Act of Parliament professing to be founded on a transaction, which, if it were proved against any spiritual person, might probably be deemed corrupt, and be visited accordingly with severe ecclesiastical censure, could hardly fail to operate as a most pernicious stimulus to uncanonical and corrupt resignations by holders of benefices generally. That the practice of tampering with conscience in respect to such resignations, especially in connection with the law which permits the sale, not only of advowsons, but also of next presentations, prevails already to a fearful extent, there is too much reason to apprehend. The worst consequences therefore must ensue, if the Legislature itself, in the cases of any Prelates,—especially of any of those, whose

high qualities and long-experienced services to the Church, would give more than common authority to their supposed example—shall appear to sanction such example by giving to it the force of law.

"H. EXETER."

House adjourned to Thursday next.

HOUSE OF COMMONS,

Tuesday, July 15, 1856.

MINUTES.] NEW WRITS.—For Dorset County, *v.* the Right hon. George Banks, deceased; for Frome, *v.* Viscount Dungarvan, now Earl of Cork and Orrery, called up to the House of Peers, as Baron Boyle.

PUBLIC BILLS.—1^o Cursitor Baron of the Exchequer.

2^o Coast Guard Service; Hay and Straw Trade; Leases and Sales of Settled Estates; Lunatic Asylums (Superannuations) (Ireland).

3^o Consolidation Fund (Appropriation); Court of Appeal in Chancery (Ireland); Mercantile Law (Scotland) Amendment.

COAST-GUARD SERVICE BILL.

Order for Second reading read.

SIR CHARLES WOOD: At a late hour last night, Sir, I stated that I was anxious at the earliest opportunity to explain to the House the general tenor of the measure which Her Majesty's Government thought it necessary to propose for the purpose of providing a more adequate reserve force for the naval service and protection of the coasts of the country. The Bill, the second reading of which I now beg to move, contains a small portion only of that plan which Her Majesty's Government proposes ultimately to adopt. But I shall take the opportunity on this occasion to state the full plan which the Government contemplates, in order that the House and the country may be aware of the whole state of the case, and of the extent of the plan which may at some future time entail a heavy expense on the country. I am anxious, therefore, that the House should know the full extent of our views, in the hope that it will concur with the Government, and support a measure which I believe to be essentially necessary for the safety of the country. I think it of the utmost importance to the country that it should possess an efficient coast-guard service, as that might be, by being immediately available on the breaking out of hostilities of the utmost utility to the nation at some future period. We have learnt much by the late war. I hope in regard to the navy

that we had less to learn than in respect to the army, because the navy, even in time of peace, has always been kept in an efficient state. It has always been found necessary to keep up a naval force for the protection of our commerce and of our colonies in all parts of the world, so that even in time of peace the navy was not left in that state of repose in which the army was necessarily placed. But although we have not had quite so much to learn in regard to the navy as to the army, still there has been much to be learnt by those who have taken an active part in the administration of our naval force. Although we have known for long the necessity of further measures in regard to the manning of the navy, yet there is no inconsiderable portion of the country quite unaware of the absolute necessity of taking measures for providing a large reserve of seamen to supply our naval force. I believe for the last thirty years hardly any person has taken a part in the management of the naval force of the country without feeling the great difficulty of providing, with sufficient rapidity on any emergency, any considerable addition to the number of men employed in our fleets. There is no difficulty in supplying ample materials for the navy. Ships of any size or number, guns of any calibre or number, adapted to the requirements of modern times, are readily to be obtained. But, since we have ceased manning our navy by means of impressment, difficulties have occasionally arisen in supplying the requisite number of men. In former times, this was speedily and effectually done by means of impressment; but of late years, the great object, and a most desirable object it is, has been to avoid the necessity of having recourse to so harsh a measure. The subject from time to time occupied the attention of different Governments, and the question has been raised how and by what means it is possible to provide a substitute for that forcible mode of raising seamen. Although it may be necessary to have recourse to that compulsory method in the case of an emergency, yet the House would never consent to call it into practice so long as there remained other means of supplying a sufficiency of men to the naval service. Nor do I think that the House of Commons would be willing to withhold any grant of money that was necessary to prevent the Government having recourse to a practice so harsh and so opposed to the feelings of English-

Sir Charles Wood

men. There is not much difficulty in gradually increasing the number of men in the navy. During eight months in the years 1853 and 1854 the number of seamen were increased by 12,000 without resorting to means of compulsion. The service has, no doubt, during a succession of years been improved in almost every circumstance that could contribute to the well-being of the sailor. The pay has been higher, the food has been better, the discipline has been more efficient, and the navy may truly congratulate itself on being the most deserving and the most popular part of Her Majesty's service. The increase of numbers before the war was continuous and steady, since the war it has been more rapid. In December, 1853, the number of seamen borne on the books was only 28,000; in January, 1854, it was 29,000; in February, 33,000; in March, 34,800; in April, 36,000; in May, 37,000; in June, 39,000; in July, 39,700; and in August, 40,600, making an increase in eight months of 12,600. In November, 1855, the number was 44,700, being an increase in two years of 16,700 men. Speaking generally, the men are of the most excellent description. Of course they are not all able seamen, but many of those who have not previously served in the navy are seafaring men and possess the habits of sailors. Many, of course, were inexperienced, as must be expected; but they, nevertheless, when mixed with a certain portion of old sailors, formed a very efficient part of the crew, and I believe that after the young men had been a few weeks at sea they were found better seamen than on any former occasion at the commencement of a war. At the same time we must not shut our eyes to the fact that during the late war we never had a naval engagement. No engagement took place with the Russian ships; the enemy never came out of harbour. I hope and trust that a long series of years may elapse before we shall again be engaged in hostilities; but we should be very shortsighted indeed if we shut our eyes against the possibility that such an event might occur; and we should be equally shortsighted if, on the occurrence of such an event, we were not amply provided for and prepared to meet it. I the other day read an exceedingly interesting paper in reference to the naval force of France. It was the opinion of that distinguished officer Admiral La Susse. In point of the number of seamen, France is

not deficient, and in point of gallantry nothing can surpass them. Happily a strict alliance and the best feeling prevail between the two countries. That alliance has been cemented by both countries being engaged in a common cause, and by the blood of both nations having been freely shed in the same battle. The material interests of both countries are promoted and the cause of humanity advanced by that alliance, and I trust never to see the day when that alliance shall be severed. But because that is the state of things between the two nations, and because there can exist no jealousy or ill-will between them, it is that we can speak freely upon the subject of our national defences, and contrast it with the naval means possessed by our friend and ally, taking his position as a lesson from which we may derive much instruction. Under their present state of organisation the French can, at any time, produce a much larger number of seamen than this country is able to do. The French, besides what they have afloat, have on shore a considerable number of seamen, which would always enable them, at any given moment, to put a larger force on shipboard than this country could. It is notorious that the other great maritime Power, Russia, also maintains a much larger number of seamen than this country does. During the late war a large proportion of those seamen were withdrawn to defend their forts on shore, and it was well known that the greater part of the artillerymen at Sebastopol were taken from the Baltic fleet. I think I need hardly say that that is not the condition in which this great country should stand. The increase made to our fleet has been most satisfactory as to numbers, but I must confess that the period of time in which this was accomplished, and could be accomplished on any future occasion, is not quite so satisfactory. When any sudden demand arises for an additional number of sailors the men must necessarily be drawn from the mercantile service. To supply the vacancy thus created, the merchants must take other men and apprentices—persons who have not been previously employed in the discharge of naval duties. To a certain limited extent this demand may be met, but if it goes beyond a certain amount, what is the further result? The moment the demand for the mercantile service becomes heavy by reason of their men being withdrawn for the Queen's service, the merchants immediately offer a larger bounty

than the Government, and the consequence is, that the efficient hands enter the merchant service in preference to the Queen's service. Suppose the Admiralty offered a bounty of £10, or even a higher sum, to all men entering the navy, the merchant with whom they were competing would know that if he could not get his crew completed, he might have to pay £300 or £400 for demurrage; and he could easily, therefore, afford to give a much larger bounty to secure the five or six hands he might want than any amount of bounty which could be held out generally by the country to men for the navy. Besides, in the end the merchant would lose nothing by it, because he would charge the additional cost of freight upon the articles he imported, and the bounty he offered would thus be paid by the community at large. Entry, therefore, from the merchant service cannot be made at once of any great number of men. The other mode is that Government should itself train men for the navy. They have been trying for many years, and with great success, the experiment of entering a large number of boys; but I need not say that that is a very slow process, and which could not be of the slightest use in the case which I am supposing, namely, a sudden emergency in which it was necessary to send a great many ships to sea without delay. The position of this country, then, is a much more difficult one than that of any other nation—I am not, of course, referring to America, where the difficulty is as great or greater than our own—but I am speaking of the European Powers, by whom, in some shape or another, the system of compulsory service is still retained. In former times we could raise 25,000 men in a single year with the help of impressment, but that is an expedient to which the Government can never again have recourse, except in extreme necessity. The only permanent reserve which we have at present for manning our ships, are the marines. The force of marines at the commencement of the late war numbered 12,000; it was raised during the war, and it is now 16,000 strong. With regard to the importance of maintaining them at that strength, I entirely concur with the right hon. Baronet the Member for Carlisle (Sir J. Graham). They are a most useful force. They are equal to the best soldiers on shore, and are only inferior to able seamen afloat; and I quite agree with the right hon. Baronet, that they will

form a very solid foundation for any sudden increase of the naval forces of the country. I propose, therefore, not to reduce the number of marines; but they do not properly come within the scope of my present observations, which have reference solely to seamen. With regard to the seamen of France, and their means of manning their navy, I wish to read two or three extracts from Reports in which the opinions expressed by very distinguished men are given. Three or four years ago a Commission of inquiry was instituted on the subject, when some most distinguished French officers were examined. I call attention to the opinions expressed by those officers, because I wish the House to see that other people are aware of those evils to which we shut our eyes. Admiral La Susse says—

“ It is generally thought in France that because we have fewer sailors and ships than England, France could not with advantage make war with her. I affirm this to be a great error. The number of men registered between twenty and forty years of age is at the present day as high as 50,000, adding the men that the *recrutement* and marines could furnish, France, in the event of a naval war, could count on 90,000 men, a number sufficient to man all the ships in the fleet. Some very false ideas are current in France on the subject of a naval war. The number of ships on either side is counted, and then without consideration the conclusion is arrived at that success will be on the side possessing the greatest number of ships. This is a false conclusion. . . . I have the most perfect conviction that France has nothing to fear in a war with England, and comparing our ships under the Empire with those of the present day, I am confident in such a struggle, if well directed, that England would suffer much more than France.”

Vice-Admiral Dupetit Thouars speaks in the same way. He says—

“ The composition of our *equipages des lignes* is admirable, our organisation of the *personnel* very good. This is a real power which we possess; what we want is the *matériel*.”

It is quite true also that at the present moment the French are making the most successful efforts to increase their navy. They are building ships as fast as we are. They have far better means, as I have previously stated, of putting men rapidly on board their ships than we have. Their system is as follows:—They have a book of inscription in which the names of all seafaring men are entered. They are called out for service in the navy. From 20,000 to 25,000 men at a time serve for about three years; and they are taught all that a seaman has to learn. The actual time they are kept in the navy differs,

Sir Charles Wood

but when they are discharged, they are still liable at any time to be called upon to serve, and be put on board ship again. They are therefore men who have gone through all the naval tactics, and who have learnt all that is to be taught in the navy, so that when they come back to the service they are perfectly well trained men. In the same Report from which I have already quoted, it is observed—

“ At the present time, by means of the *levée permanente*, all the seamen furnished by the *inscription maritime* have in succession passed through the navy, and have all received a complete education, both in seamanship and gunnery.”

Another body of men is raised by conscription—7,000 in number, who are trained for the navy, but they seldom make good seamen. It is not natural to them, but they have all the fighting qualities. They understand the management of the great guns, and are thus of the greatest possible use. That is the state of the French navy, and the result is summed up by M. Lanjuinais in these words—

“ On the whole, we believe that, making allowance for all contingencies, we may count on 40,000 seamen eminently fit for war, and on 20,000 borrowed, partly from the *inscription* and partly from the *recrutement*, and capable of rendering efficient service if they are properly embodied with the former. It must not be said that we are to count as nothing the *novices* who have little experience, the master mariners, and the seamen above the proper age, not comprised in the 60,000, who are certainly available; but these must be reserved for service on shore, in transports, and in the defence of the coasts.”

Now, I ask the House to consider for a moment what is the ordinary state of things in this country. We of course maintain a large number of men afloat, but our seamen are generally scattered over a vast portion of the world. We have extensive colonies and an extensive commerce. Our sailors are employed for the protection of those colonies and of that commerce; but whatever our naval service has been in former years we still want, beyond the ships scattered all over the whole world, a certain force at home, and, above all, we want that which the French and the Russians have, the means of putting at once on board ship a considerable number of seamen. I do not expect the measure which I now propose to accomplish that which, in the opinion of the Government, ought ultimately to be done; but it will considerably aid in providing seamen for our naval service. Measures

have from time to time been taken to strengthen the reserve naval force of this country, but I think it better that the measures should be combined together. A certain number of men are entered in the dockyards as riggers, and who are liable to be called into active service in case of war. We drew somewhere about 200 men from this source. The great reserve, however, has been that body of men called the coast-guard. For many years past men who have entered the coast-guard have previously been sailors. The whole number of that body is about 5,000. About 2,000 of those men were draughted last year to serve in the Baltic fleet. There is another body small in number—the pensioners, but who are not very efficient for active service. The whole number of men who were and who might be called into service on an emergency I should state to be about 3,000, and that in all probability not more than about 2,500 were at any one time so employed. Comparing this number with the extent of our maritime power, I must say that such a state of things does not consist with the honour, the interests, or the safety of the country. The circumstance that we were actually able to withdraw 2,000 men from the coast-guard pointed out that branch of the service as the first to which we could look to in forming a reserve. I propose, therefore, to enlarge its numbers, and to render it more perfectly naval in its character. Some years ago there was a force called the Naval Blockade. It consisted of two ships—one in the Downs and the other at Nowhaven—on board each of which 1,200 were stationed. Those men were all sailors, either moved from other ships or raised by the officers from the general service; and they were employed in the protection of the revenue. It was supposed that that plan was more expensive than it might have been; although I believe there was some misconception on the subject. It was put an end to in the year 1830. There was a good opportunity, of judging of the efficiency of the system as far as manning the navy on an emergency. It being necessary to send ships suddenly to Lisbon, the commanding officer got into his boat, and ran down the coast to give notice to his men. They immediately mustered on board their ship, and they were ready to sail the next day. I propose to render the coast-guard as available as the coast blockade were. The coast-guard originally consisted in great

part of civilians, but in recent years a change had been introduced which has rendered it more of a naval body than it had been before. Most of the officers are now naval officers, and about two-thirds of the men were sailors, who have served a certain number of years afloat, and who have been admitted into the coast-guard on account of their good conduct. Those sailors are all liable to be recalled into the service; but there is this objection to the arrangement, that they remain in the service rather longer than was desirable. It was that circumstance which had furnished a foundation for the facetious account given by the hon. and gallant Admiral (Sir C. Napier) of the appearance of the coast-guard men in a ship's crew seated on the deck for Divine worship, who, when the chaplain began to read, all pulled off their caps displaying bald heads, and put on their spectacles. Those old gentlemen, however, if not fit to go aloft, were amongst the steadiest portion of the crew; and I have heard from some of the captains expressions of regret at losing their service. The proposal which I intend to make, in fact, is to increase the number of the coast-guard; to discharge all those who have been long in the service at an early period, so as to retain in the body a larger number of young men available for the general service of the country. I propose that their number should ultimately be 10,000, but I do not expect to obtain that number immediately. The increase must be gradual. There are a great number of men in the coast-guard who have not been sailors. With regard to them, I propose to leave all the existing regulations in force. These persons will be subject to the present regulations only; but with regard to those who have come from ships of war, and who, to all intents and purposes, are sailors, they will be subject to the same discipline and to the same liability of service as they were while on board; but they will have an allowance for provisions and lodging, when employed on shore, which will be equal to the present pay enjoyed by the commissioned boatmen and the boatmen of the coast-guard. Thus the persons forming the coast-guard will in future be tried seamen. I calculate that this will create a corps of reserve from which may be drawn, in case of emergency, from 5,000 to 7,000 of the best men, of good character, and who have been discharged from the service and appointed to the coast service as a reward for their

good conduct. I must say that, even independently of naval considerations, there are good grounds for increasing the coast-guard for revenue purposes. The present number is not adequate. There are many cases where men are obliged to work night and day. Besides, there are several parts of the coast which have been most unaccountably left unprotected. The coast-guard in Ireland is also, as they are not expected to do duty at night, inefficient. I propose to make the body efficient throughout the United Kingdom. It is therefore indispensably necessary that the body should be considerably increased, and be put on a different footing. There are various parts of the country likewise in an undefended state. I propose to station ships at the principal ports of the country, which will be the head quarters of such a portion of the coast-guard service as is in the neighbourhood of those ports. There are also several revenue cruisers which I propose to attach to those ships as tenders. I have often been asked what I proposed to do with the new gunboats. I believe that they will form a most efficient class of vessels for this purpose. I propose to attach a certain number of them to the large ships, and they will be employed at times as revenue cruisers. The remainder can be used with their heavy guns for the training of the Naval Coast Volunteers; and it is in these vessels that the service of that body will be most efficient in future wars, for the defence of their own homes and shores. The Naval Coast Volunteers was set on foot six years ago, and was to have consisted of 10,000 men; but the whole number was never raised. But the whole attention of the Government having been turned to the raising of men for active service, the project for raising these volunteers has not met with much success, not by any means so much as it might have done, and, as I firmly believe, may still attend it. Further than improving the local organisation, I do not propose to make any alteration with regard to that body. The only complaint I have ever heard is one by the volunteers themselves—namely, that they have not been trained. The fact is, there has hitherto been no means of doing it; but I think it would be most desirable that they should be instructed from time to time in the guard-ship and the gunboats. I hope that by means of practising the batteries of the coast-guard the volunteers may receive a preliminary drill on Saturday even-

Sir Charles Wood

ings, and other times that will not interfere with their ordinary avocations; and then they may be mustered for a fortnight or three weeks in each year on board the practising vessels. I think also that the ships stationed at the different ports may be made most useful for the training of young men. Captain Harris, at Portsmouth, has had the greatest success in educating young men, and a great many novices and boys have been trained in his vessel. The people of this country have a natural affection and aptitude for the sea; and when the advantages of the Queen's service are known, I have no doubt they will be anxious to enter themselves. I may mention a curious instance of this. When a militia regiment was disbanded a short time since, a number of them volunteered, not for the marines, as might have been supposed, but for the navy. Our great object is to attract the people to the naval service, by making the advantages that it holds out more generally known. At present, all the knowledge that is possessed of that service is confined to persons living near the large naval ports. On a ship being stationed for the first time at a particular port, the people crowd on board, and are particularly struck with the cleanliness and comfort of the ship. Let this familiarity with naval matters be encouraged, and the people of this country will be more ready to engage in the maritime service. There is one other matter I wish to mention. All pensioners are liable to serve during the time they receive their pensions. My right hon. Friend (Sir J. Graham) introduced a measure to allow men, on their ships being paid off, to choose, after ten or fifteen years' service, to retire from the service, receiving a small pension, but still liable to be called upon to enter the Queen's service again in time of war; but a very inconsiderable number of persons have as yet had the opportunity of availing themselves of that proposal. The number will, however, gradually increase as ships are paid off, and they will form a great addition to the reserve for seamen. I am inclined to think that those persons who are thus paid off, those who belong to the coast-guard and pensioners, should be all brought together, and formed into one body of reserve. This subject of forming a reserve has for many years occupied the anxious attention of every person connected with the naval service, and I was delighted at hearing the other evening my right hon. Friend

(Sir J. Graham) express sentiments on this subject which entirely coincide with the opinions I myself entertain. With regard to the present measure, which is only to effect the transfer of the coast-guard from the Customs to the Admiralty, that is an arrangement which, perhaps, might have been effected without coming to Parliament, but I thought it better to submit the whole question to the House, in the hope that, knowing what it is the Government wish to do, Parliament would see the absolute necessity of taking adequate measures for providing a naval reserve. I hope I have succeeded in enabling the House to understand the views of the Government, and in convincing it that the plan I have proposed is the best and readiest mode of providing that which is admitted on all hands to be required for the interest and welfare of the country. I beg to move that the Bill be now read a second time.

SIR JAMES GRAHAM: Sir, hon. Members may, perhaps, remember that on a former occasion I stated that I was fully impressed with the necessity of such a measure as that which has now been proposed by my right hon. Friend the First Lord of the Admiralty, and that I endeavoured to point out to the House, when in office, the urgency of that necessity. My right hon. Friend has stated very truly, that the Coast Blockade was once connected with the Admiralty, and that there was found to be a great advantage in that connection. But in the year 1830, economy was the order of the day, and fiscal considerations, after a peace of long duration, and which at that time there was no prospect of seeing disturbed, prevailed before all other views, and it was thought expedient to transfer the coast-guard to the Board of Customs. But, notwithstanding that transfer, I and my colleagues endeavoured to give to that force a more naval character, by enabling meritorious seamen to be placed in that service as a reward for good conduct, but at the same time to be available in the naval service if war should unhappily return. That measure was found by experience to be perfectly correct. But my subsequent duties at the Admiralty, convinced me that the time had arrived when that decision of making the Coast Blockade merely a civil force, and subject to civil control ought to be reviewed. I agree with my right hon. Friend, that in outward appearance there will be a considerable increase of expense by the plan

now proposed in the first instance; but I am decidedly of opinion that it will ultimately, in a fiscal point of view, be repaid to the public. At this moment a large portion of the coast is not watched by the coast-guard, and a large opening is left for smuggling; and there smuggling no doubt is, and will be carried on to a considerable extent. Now, the plan proposed will cover the whole of the coast of the United Kingdom. It will be well watched throughout, and I am quite satisfied that a salutary effect will ensue; and, if so, in the end the revenue will be more productive—the increased expense will be more apparent than real. It is also quite true, that although impressment, as the last melancholy resource of this country in an extreme emergency, must be retained, yet, as an ordinary means of increasing your naval power, no reliance can be placed on it. But what we want is, not to increase the number of men by force, but by attraction. We wish to induce men to enter the service. My right hon. Friend has pointed out the opposite course on the other side of the Channel, which has been in operation for nearly a century. As a system nothing can be more perfect. It had its origin under M. Colbert, in a country where great vicissitudes have occurred, where there have been monarchy, republicanism, and revolution; but, throughout the whole of that period, notwithstanding all the changes and overthrows of Government, that great system of naval conscription has never been cast aside, and amid all changes it still remains perfectly unimpaired. I do not believe that human skill can devise a better system than the French system of naval conscription. The whole naval population of that country, which has a coast on the English Channel, the Atlantic, and the Mediterranean, is under the command of the Government, and in the shortest time and with the utmost certainty may be made available for war. I do not wish to push this topic further, but still when we know what are the means of the first naval Power next to ourselves, it becomes, I maintain, an act of common prudence without the least delay, to do all we can in favour of the voluntary system. That is the object of the measure proposed by Her Majesty's Ministers. This combination of the various bodies available as a reserve, is, in my opinion, the best course that can be proposed. I do not think a more prudent proposition could have been made by the

Government under the present circumstances. We are in an opposite position from that which exists in France. The difficulty which France has to contend with is not the want of men, but the want of *matériel*; our difficulty is the reverse; our *matériel* is ample, but without a compulsory power we want men. But, still I am satisfied that, on the whole, our plan is best, and that one volunteer is better than two pressed seamen. We have now enlisted and embodied 16,000 marines, who are perfectly trained soldiers, and as well skilled as any men in the army, while on board ship they are second only to able seamen. They are able gunners, and altogether it is a force so powerful and so valuable, that the House will fail in its duty, if it allows that force to be reduced in the least degree and become inefficient. It constitutes the guard of our most important ports—Plymouth, Portsmouth, Chatham, and Woolwich. These shores cannot be easily assailed while you have a force of 10,000 marines ready to go on board your ships. The new combination which is proposed of the pensioners and coast volunteers with the coast-guard, if well conducted, and if the men are treated with kindness, and at the same time with firmness, I am of opinion will render the Queen's service more acceptable than it ever has hitherto been. It will be a plan most advantageous to the country by reconciling an important body of men to its naval service. If this combination should be effected you will have a body of at least 10,000 volunteers established in this country as a permanent naval reserve for the protection and security of the country. With respect to the coast-guard, I would observe that, perhaps, not immediately, but prospectively, it should be made purely a naval force. Some provision should be made for the early pensioning of men who, from age or infirmity, may be worn out. It is of the greatest importance that this force should be available at all times, and that when a juncture arrived there should be no disappointment. The men should be trained constantly at gunnery. The system of gunnery should in all ships and vessels be used by the coast-guard, that they may be accomplished gunners as well as able seamen when their services are required. It is also very desirable that in the principal harbours of this country ships of war should be stationed as quarters both for the coast-guard and the coast vo-

Sir James Graham

lunteers. As to Scotland, I believe, since the French war, there are ports on the north-east and north-west coast where a ship of war has never been seen. So also on some parts of the coast of Ireland, there are harbours where ships have never made their appearance. The people of this country are undoubtedly a maritime people. They have a taste for the naval profession, and have a sort of desire to see ships; at the same time they entertain a fear of the severity of the discipline supposed to be practised in them. My belief is, that if you were to accustom the people to see ships of war, and enable them to acquire a knowledge of the real service of the navy, and to know how much it has improved, how little of that severity they dread now exists, and what are the comforts and advantages which the navy now enjoys—I say, Sir, my belief is that the presence of those ships, and the knowledge of the mode in which the discipline is now carried on would be of very great advantage to the naval service and the country at large. I have nothing further to add. I have earnestly desired to see a measure of this kind introduced. I congratulate my right hon. Friend and Her Majesty's Government in having had the opportunity of introducing this measure. I think great praise is due to the right hon. Gentleman the Chancellor of the Exchequer in having given his countenance to it. I think it highly honourable on the part of the Admiralty in having overcome the prejudices that have existed in another great department against this measure. Sir, I am anxious to see the navy of this country maintained in all its efficiency, and I am very confident that, although the measure may appear costly in the first instance, yet in the long run the revenue will not suffer, but prosper under the new arrangement.

MR. GROGAN said, he wished to know whether the officers in the existing coast-guard would remain in the service after the new coast-guard was formed?

SIR CHARLES WOOD said, that a certain number of the present coast-guard would remain if they were competent to discharge their duty.

SIR FRANCIS BARING said, he was perfectly satisfied that the officers who now belonged to the coast-guard would remain in the service, and he therefore trusted that the Government would behave towards them with liberality. With regard to the plan before the House, he desired to express his entire approval of that part of it

which transferred the coast-guard from the Treasury to the Admiralty. The main difficulty that we had was the manning of ships on the first breaking out of war. The House had attempted to deal with that difficulty, but unsuccessfully. The coast-guard, without doubt, was the best reserve the Admiralty had, and he thought it infinitely better to increase that service than to endeavour to devise any other mode. They would thereby create a naval reserve of the very best description. He certainly did not think the revenue would suffer by the plan. But as to the expenditure, he was not sure that the country would be repaid in money. But he was prepared to go to a greater expense for that which he believed to be one of the most valuable arrangements for the naval service and for the protection of the country. He was glad that the present moment had been chosen for the proposal of such a scheme. It might have been taken under less favourable circumstances. He remembered that it was agitated when the horizon was not perfectly clear, and one of the great difficulties they had then to contend with was the effect it might have in another quarter. When danger came, and it was proposed to make preparation for that danger, it often happened that the danger itself was increased by the preparation thus made. Any such feeling at present was entirely out of the question. This country was fortunately upon the most friendly terms with the greatest naval Power in Europe after ourselves, and the measure now proposed could not be looked at with that jealousy it might have been at a less favourable moment. He cordially concurred in the proposal of his right hon. Friend the First Lord of the Admiralty, and in the measure shadowed out he saw nothing but what, in his opinion, the House and the country ought to adopt.

THE CHANCELLOR OF THE EXCHEQUER said, that, if the transfer proposed by his right hon. Friend the First Lord of the Admiralty were considered merely as a fiscal question, and if he had regarded the coast-guard merely as a means of protecting the Customs' revenue, the conclusion at which he should have arrived would, probably, have been that it would be better to let the matter remain in its present position. But, considering the state of the country after the great war in which they had been engaged, and when it was necessary for them, in making a transition from war to peace to consider in what manner

it would be possible to place the defensive resources of the country on the most efficient footing, it was necessary to decide what provision could be made that would be consistent with the efficiency of the naval force of the country. In arriving at a conclusion upon that subject, the present state of the coast-guard, and the possibility of using it as a means of manning the navy, and also for training seamen, naturally presented itself in a prominent point of view. Therefore, he viewed the question not merely as a fiscal question, but as a question of general policy connected with the defensive service of the country. Not looking at the coast-guard merely as an engine for the protection of revenue, but taking into consideration the other great interests of the country, and making, as it were, a compromise between the protection of the revenue and the defence of the country, through that great branch of the service, the navy, he came to the conclusion, that on the whole the measure before the House would be conducive to the advantage of the country and to its permanent and lasting interest. Arriving at that conclusion he satisfied himself that sufficient securities would be taken for the protection of the Customs' revenue. That revenue yielded at the present time about £23,000,000 sterling; and it was most important that no defalcation should take place in that great branch of the national income, and that its receipt should not be put in jeopardy. But he was satisfied that under the control of the Admiralty the coast-guard service would be perfectly efficient as an engine for the protection of that important branch of revenue. In reply to the remarks of the hon. Member for the City of Dublin (Mr. Grogan) he would state that there was no intention to break up the present force. It would be simply transferred from the Customs to the Admiralty. Whatever changes might be made with regard to particular individuals would rest upon a special examination of their cases, and upon merely individual grounds. No general change would be introduced with respect to the constitution and formation of the coast-guard.

MR. J. G. PHILLIMORE said, he was delighted with the measure; but he should have been better pleased if the Bill had proposed to raise 15,000 men instead of 10,000. He regarded the navy as the most constitutional force, and he hoped that this measure would prove some sort

of recompense for the unfortunate cession of her belligerent rights by this country, of which improvident act he was afraid we should still reap the results.

MR. HADFIELD said, he thought the measure was calculated to excite the jealousy of other nations, and to foster the military spirit in this country. He would take that opportunity of calling attention to the necessity of improving our diplomacy, otherwise these preparations would be rendered nugatory. There were at present 4,000,000 soldiers in Europe, and no one could say there was not danger in that fact. He believed that the late war might have been prevented if a skilful diplomacy had been adopted. What was necessary for defence was one thing, but he looked upon these preparations for war with great jealousy. He implored the House to consider our relations with other countries, and that with the wrangling that had occurred with the United States it was important that the mercantile interests should be fully represented in such a dubious condition of things. He felt it his duty to rise and say that he hoped that those absurd quarrels would soon be put an end to.

MR. MAGUIRE said, he hoped that ships of war would be sent to the Irish coasts, as he felt satisfied that a vast number of valuable volunteers would be obtained. He would recommend Government to make a naval station in the north of Scotland and the south of Ireland, as that would hold out the prospect of many volunteers, and at a time when all other nations of Europe were arming it was proper we should arm too.

MR. ROEBUCK said, he should support the Bill, for he considered now that all nations were arming we ought to put ourselves not in a position to insult other nations, but so that they should not insult us. Nations were given to war, and when we saw continental nations making encroachments wherever they could he would leave it to his hon. Colleague (Mr. Hadfield) to say, if this country took no step to protect itself, what would be the condition of the country, and of his own constituents, in case of aggression? It was all very well to keep at peace with the world; but mankind had from the beginning of their existence been prone to war, and in spite of the warnings of very well-intentioned men they had gone to war, and would continue to do so as long as the world lasted.

Bill read 2^d.

Mr. J. G. Phillimore

MILITIA PAY BILL.

Order for Committee read.

COLONEL DUNNE said, he thought the conduct of the Government in respect to this Bill was not wise. He wished to have the causes of the collision between the troops and militia at Nenagh explained by some Member of Her Majesty's Government. He disapproved entirely of the way the disembodiment of the militia had been carried out in Ireland, as the contradictory plan adopted was calculated to produce just discontent. No fewer than three orders on the subject had already been issued from the War Department. [MR. F. PEEL: No!] The hon. Gentleman said No, but he maintained that the War Department was responsible. Some of the men who had been disembodied had been obliged to sell their boots for subsistence. He had received a letter from a magistrate who had been wounded at Nenagh—this magistrate had gone with the troops to suppress the mutiny—and he said the cause of the outbreak was obvious, namely, the bad treatment of the Irish militia, compared with the treatment the English militia and the German Legion received. He therefore hoped the Government would lay the letters written by Sir James Chatterton to the War Department on the table of the House. He had himself no doubt that the cause of the outbreak was the vacillation of the War Department, and its reluctance to do justice, a course of proceeding calculated to injure the military spirit developing itself in Ireland. But the Irish soldiers and Irish regiments were never fairly treated. He believed, as he had just stated, that the Department of War was the main cause of what had occurred at Nenagh, for had a little humanity and a little common sense been exercised, the disturbances and discontent that arose would have been avoided.

MR. COWAN said, he was not satisfied with the answer received some time ago on the subject of billeting militia in Scotland. He understood that the intention of the Government was to assimilate the law upon the subject between England and Scotland, and billet the soldiers on public-houses instead of the inhabitants. He thought such remedy even worse than the disease. It would be most lamentable to place the soldiers nearer to the whiskey store than they were at present, and the Government would do well to abolish billeting altogether.

MR. FREDERICK PEEL said, it

would be premature to express any opinion as to the efficiency of the militia. He had already spoken twice on the subject of the occurrences at Nenagh, and had nothing further to add to his remarks while an inquiry was pending. He could not agree in the remarks of the hon. and gallant Gentleman (Colonel Dunne) as to the orders from the War Department having produced those occurrences; and with respect to the impression that any difference in treatment or difference in gratuity was to take place, an order was issued promptly which stated that a perfect equality was to be practised.

LORD NAAS said, he wished to point out the necessity of paying attention to the efficiency of the militia staff. The short time to be allowed for practice would hardly keep those parties in a proper state of efficiency. He did not think the answer of the hon. Gentleman (Mr. F. Peel) was satisfactory in reference to the statement of his hon. and gallant Friend the Member for Portarlington. It was too true that the disembodied men were left in a perfect state of destitution, and the officers could give them no satisfactory solution of their embarrassment. That was a plain statement and explanation of the Nenagh case, and he would add, though other militia regiments in Ireland had been treated quite as badly, they had shown no disposition to disorder.

MR. MAGUIRE said, nothing could be more injurious to the interests of the country than to treat the Irish militia regiments as they had been treated. He wanted to know what steps would be taken to give justice to the Irish militiamen, and to pay them their 14s.? The occurrences at Nenagh were solely attributable to the miserable blundering of Government.

MR. PALK said, he took the same view of the case as the hon. Gentleman (Mr. F. Peel), for he felt satisfied no order was given inconsiderately by the War Department. He should, however, be glad to hear how the hon. Gentleman explained the way that the Irish militiamen, with 5d. in their pockets, were to travel home, and to travel back to some place to get their 14s. That, surely, was not a proper system to adopt?

COLONEL FRENCH said, the greatest discontent existed in every Irish militia regiment, in consequence of the way they had been treated and their expectations disappointed. He would beg to ask the hon. Gentleman to consider whether a

larger amount of barrack accommodation could not be afforded in Ireland?

House in Committee.

Clauses 1 and 2 *agreed to*.

Clause 3. (Adjutants, Quartermasters, and Non-Commissioned Officers of Militia, may be employed in their counties.)

COLONEL GILPIN said, he should move that the clause be rejected.

Question put, "That the clause stand part of the Bill."

The Committee *divided*:—Ayes 62; Noes 44: Majority 18.

Clause *agreed to*. Remaining clauses *agreed to*.

House resumed.

Bill *reported*, as amended.

THE GUARDS—QUESTION.

SIR JAMES FERGUSSON said, he would beg to ask the hon. Gentleman the Under Secretary for War whether it was intended, in consequence of peace, to make any reduction in the number of companies, or in the number of captains of companies, of the Foot Guards.

MR. FREDERICK PEEL said, that the number of companies in each battalion of the Guards had been increased to ten during the war, and as it was not the intention of the Government to make any reduction in that number, of course any vacancies which occurred in the number of captains would be filled up.

BURIAL-GROUNDS—QUESTION.

MR. PALK said, he wished to ask the hon. Under Secretary of the Home Department what steps the Government meant to take with regard to the Burial Acts, and what course was to be pursued where the existing burial-ground had been closed and the Bishop refused to consecrate any new ground?

MR. MASSEY said, it was not the intention of the Government to make any alteration in the course of the present Session, but in the next Session a Bill would be introduced to revise and consolidate the existing Burying-grounds Acts. The point alluded to in the second part of the question would stand over till then, as it would be included in that measure.

REINFORCEMENTS FOR THE CAPE—QUESTION.

LORD WILLIAM GRAHAM said, he would beg to ask the right hon. Gentleman the Colonial Secretary whether it was

true that three regiments had been sent to the Cape, and whether that was merely a measure of precaution, or was caused by any immediate prospect of an outbreak in that colony?

Mr. LABOUCHERE said, there existed considerable alarm at the Cape with regard to the disposition of the natives towards the colony, but no overt act of aggression had as yet taken place. In the last despatches received from the colony the Governor expressed his confident hope that no such attack would take place, but, under the circumstances, the Government had thought fit to order reinforcements to be sent there.

THE REVIEW AT ALDERSHOT.

VISCOUNT PALMERSTON: Sir, I beg to move that the House at its rising adjourn till Thursday next.

Mr. DISRAELI: I do not rise, Sir, to oppose the Motion of the noble Lord, but I must protest against the new system which has now been introduced of the Minister of the day giving holidays to the Members of the House, and paying for their entertainment out of the public purse. It is a precedent, I think, Sir, which ought not to be admitted, and the House ought to take an opportunity of showing that it does not approve it. I should have thought that the experience of the last treat which the Government gave us would have deterred them from following that example. But, however, as the First Minister of the Crown has thought fit again to announce his gracious favours to the House of Commons—and I suppose the other House will be allowed to share in the enjoyment—I will not at this period of the Session formally ask for the opinion of the House upon it, but as far as I am personally concerned, I protest against the system. I certainly thought last night it was not at all dignified for the First Minister of the Crown to be informing the House how they were to repair to this entertainment, and what arrangements had been made for the Commissariat, and other matters of that sort. I again assert that it is not at all a desirable thing that the Minister should give holidays to the Members of Parliament, and, without any sanction whatever, afterwards entertain them at the public expense.

COLONEL FRENCH said, that the right hon. Gentleman appeared to have forgotten to mention the remarkable generosity of the Government in giving away what

Lord William Graham

did not belong to them—the Wednesdays. Now, hon. Members might recollect that this was the third Wednesday which they had given away this Session. He wished to know whether there would be any objection to allowing ladies to use the tickets which Members of Parliament did not feel disposed to make use of?

Mr. W. WILLIAMS said, he should like to ask the noble Lord (Viscount Palmerston) from what fund it was intended that the expenses of this entertainment should be paid? The House had had before it neither Estimate nor Vote upon the subject. Complaints had been frequently made of the misapplication of money voted for one purpose and applied to another; and if it was by that means that this expense was to be defrayed it would be most objectionable and most unwarrantable. He for one should not accept the bounty of the noble Lord, although, if every one paid his own expenses, he might be disposed to spend the holiday like other hon. Members. This system of treating the Members of the two Houses was quite new, and people out of doors said it was nothing but a paltry bribe on the part of the Government to influence Members in their favour.

VISCOUNT PALMERSTON: I really think, Sir, the House will not enter into the constitutional jealousy which has induced my hon. Friend behind me (Mr. W. Williams) and the right hon. Gentleman opposite (Mr. Disraeli) to think that these occasional military and naval reviews will corrupt the House of Commons, especially after what happened last time. I quite agree with the right hon. Gentleman that it would be very unfit that upon trifling and frequent occasions the Government should propose to the House to adjourn over any business day, and that arrangements should be made for the pleasure of the two Houses of Parliament; but I think every one will feel that to the occasion of the great review of the naval forces which had been assembled with a view to warlike operations, but which fortunately were not required for that object, and to the present occasion, when our brave troops have returned from the Crimea and when so much interest has by every one been displayed in them, that objection will not apply. I really think, Sir, that these criticisms of the right hon. Gentleman are not in good taste. The right hon. Gentleman thinks that it was unbecoming of a person who has the honour to fill the situa-

tion which I now hold to explain the arrangements which had been made. The time was very short, and I think that, if I had not taken the opportunity of giving that explanation, I should have been reproached with keeping Members in ignorance of the steps which they ought to take in order to be present at the review which Her Majesty is about to attend. With regard, Sir, to the question of my hon. and gallant Friend (Colonel French), I am afraid that it has not been in the power of the War Department to make arrangements for the conveyance of ladies. It has been difficult to obtain carriages to convey the Members of the two Houses from the railway station to the camp, and I am afraid that ladies, unless they took their own carriages, and were thus independent of the assistance of the Government, would be exposed to great inconvenience. With regard to the fund from which the expense is to be defrayed, my hon. Friend (Mr. W. Williams) must be aware that there is annually voted a considerable sum on account of civil contingencies, to provide for unforeseen expenses. That is the Vote out of which this very small expense—I can assure my hon. Friend that it will be very small—will be defrayed. We shall be exceedingly sorry not to have the pleasure of my hon. Friend's company to-morrow, but I hope he will relent and accept the treat without feeling that he will lay himself under an obligation to the country by availing himself of the special train.

MR. HENLEY: I must say, Sir, that I for one enter my protest against the payment of expenses of this sort by the Government. It is making a beginning. If the House chooses to adjourn for a particular festival or for any great spectacle, well and good. That is for its consideration according to the business which it has to perform; but I very much agree with what was said by the right hon. Gentleman the Member for South Wiltshire (Mr. S. Herbert) on a former occasion. I think that if we go as a House we ought to go as a body; if we go as private gentlemen we ought to pay our own expenses. If we may compare great things to small, we are getting very much into the way of that with which so much fault was at one time found—churchwardens and overseers having a dinner at the expense of the parishioners. I do not think we ought to make such a beginning, and I for one protest against it, because, what is very becoming to-day, lays the foundation

for something less becoming to-morrow, and so we go on. I, therefore, cordially agree with all that has been said by my right hon. Friend (Mr. Disraeli), and for one object to the payment of these expenses by the country.

SIR HENRY WILLOUGHBY said, he thought that the objections would be met by each Member paying his own railway fare.

Subject dropped.

THE MASTER OF THE ROLLS AND THE ATTORNEY GENERAL FOR IRELAND.

THE ATTORNEY GENERAL FOR IRELAND (MR. J. D. FITZGERALD): Mr. Speaker, I take advantage of the Motion for the adjournment of the House to fulfil the pledge which I gave last night, that I would call attention to the charges made by the right hon. and learned Gentleman the Member for the University of Dublin (Mr. Napier) and the Master of the Rolls of Ireland, relative to the escape from justice of a Member of this House charged with crime. I rise to perform a duty which I believe that every Member of this House owes not alone to himself but to the assembly of which he is a Member—namely, if a charge is made affecting his personal character, his conduct as a Member of this House, or his honour, to take the earliest opportunity of making to the House the statement which may relieve him from such imputations. Sir, I have lost not a moment in adopting this course, although I stand in the peculiar position that I am not at this moment aware that I have before me any assailants; for the right hon. and learned Gentleman opposite (Mr. Napier) has adopted the singular course, that while he has insinuated a charge he declines to make it until he has heard the defence. Now, Sir, if I could have brought this question before the House in any shape in which it could have dealt with it—if there had been any breach of privilege, or if I could have brought it forward in any other tangible shape, I should—although the right hon. and learned Gentleman has shrunk from the performance of that which he undertook—have felt it my duty to take that course. But, Sir, it was not open to me to do so. There was no Motion which I could make, and I was forced into the position that I must either rest, probably until next Session, under the imputations which have been cast upon me as a Member of Her Majesty's Government and as a Mem-

ber of this House, or I must take this opportunity of relieving myself from those charges. I willingly take the latter course, and I am much mistaken if, before I sit down, every Member of this House who is influenced by the honour by which a Gentleman ought to be influenced, and by the candour which is due to that character, does not say that my exculpation is full and complete. In order that the House may understand my observations it will be well that I should, before proceeding to that exculpation, refer very briefly to what has taken place and to what is the grave imputation which has been cast upon me. The House will recollect that in consequence of some observations which fell from the Master of the Rolls of Ireland—fell from the judicial bench on the morning of Saturday, the 5th of July, and to which I need not now further advert, a question was put to me by the hon. and learned Gentleman the Member for Enniskillen (Mr. Whiteside) in his place in this House. Now, Sir, there has been some controversy as to the answer which I gave to that question. The right hon. and learned Gentleman (Mr. Napier) alleged, that I had accused the Master of the Rolls of Ireland of breach of his judicial duty and of forgetting the obligations which his oath as a Privy Councillor imposed upon him. Upon a former occasion, Sir, I read the statement which I made, taking it from *The Times* newspaper. I have since referred to three other journals—namely, the *Morning Herald*, the *Daily Express* (a Dublin paper), and the *Dublin Evening Mail*. I have selected these three as being papers which do not in the least sympathise with my political feelings. I find in all of them, not identically, but substantially, the same account. Having before read the report of *The Times* I shall not repeat it. I will now take that of the *Dublin Evening Mail*. In that paper the hon. and learned Member for Enniskillen (Mr. Whiteside) is represented as making this statement:—

“A learned judge, from his seat on the Irish bench, had declared that a certain person ought to be prosecuted, and that it was the duty of the Government to consider the propriety of such prosecution. Now, it might hereafter be matter for serious consideration if, as had been stated, and stated also judicially, that the principal in these transactions, after having been allowed to walk about for some days subsequently unmolested, had finally left the country—it might, he would say, be matter for investigation how far the Government were responsible for not having acted

The Attorney General for Ireland

upon the admonition thus judicially given to them.”

There we find the hon. and learned Gentleman referring to a statement which had been made by the Master of the Rolls on the 5th of July, and putting forward a charge founded upon that statement, that the Government, or rather myself as its responsible officer, had been guilty of a dereliction of duty. It was in answering that question, the first upon the subject which I had answered, that I made the statement out of which this controversy has arisen. According to the *Dublin Evening Mail*, my answer, after stating the facts, was this:—

“Now, if the Master of the Rolls had adopted the course which became him, he ought to have made an order directing the evidence to be laid before the Attorney General, or, in his capacity of a Privy Councillor, he ought to have waited upon his Excellency the Lord Lieutenant and apprised him that materials were before him to enable him to declare that a Member of Parliament had been guilty of a serious breach of trust.”

That is as nearly as possible, if not quite, identical with the language of *The Times*. I have compared with it the reports of the *Morning Herald* and the *Daily Express*, and they give the same account of the matter. So that my recollection of what I intended to say, and what I believe I did say, is corroborated by four newspapers,—that I did not even allude to the oath of the Master of the Rolls; that I stated that he might, according to his judicial privilege, have communicated with me or my colleague the Solicitor General for Ireland, or have made an order that the evidence should be laid before us; or that he might, having, in virtue of his privilege as a Privy Councillor, access to the Lord Lieutenant, have waited upon his Excellency, and have communicated to him the fact that there were before him materials for declaring that a great crime had been committed. Now, Sir, when I was charged with having been the means of procuring, or at least with having connived at the escape of James Sadleir, I at once repudiated the imputation, and said that, if he had evaded justice, my inference was, that he had fled, being frightened from the country by the remarks of the Master of the Rolls, which I characterised as “irregular.” Unfortunately, I had not the advantage of seeing in the House on that evening any members of the Equity bar, but, had any such been present, I

should have confidently appealed to them to say whether, in applying the term "irregular" to the observations of the Master of the Rolls, I did not use a mild and mitigated expression. On the following Monday the hon. Member for Mayo (Mr. G. H. Moore), taking his tone from the Master of the Rolls, and assuming that the Government had connived at the escape of James Sadleir, asked me a question on the subject. Though the language used was somewhat irritating, I endeavoured to reply with moderation, and I will read to the House my answer, as I find it reported in *The Times* of the 8th of July:—

"From the earliest moment that this case had been brought under his attention, as the executive officer of the Crown, he had taken the most active steps to prevent Mr. Sadleir leaving Ireland, even before he was in a position to issue a warrant against him; and from the report of the officers employed he had reason to believe that he had not left Ireland since the 17th or 18th of June. If he had left Ireland, it was before that date, and in consequence of the irregular observations of the Master of the Rolls."

The House, I trust, will do me the justice to observe that there is no reference in those words to the conduct of the Master of the Rolls, either as a Judge or a Privy Councillor, beyond the simple fact of my applying to his observations the term "irregular." But it now appears that the right hon. and learned Gentleman the Member for the University of Dublin lost no time in communicating on the subject of my reply with the Master of the Rolls; and for the character of that learned Judge I do most earnestly hope that some erroneous representation of what did take place was made to him. I trust that he was induced to take the course which he has pursued, not by an accurate version of the facts, but by some misrepresentation which led him to believe that his character as a Judge was assailed, and that his honour as a gentleman was called in question by the discreditable imputation of having disregarded the sacred obligation of his oath. The House will be good enough to remember that, in citing documentary evidence I have taken care to select my extracts from newspapers, which have no political sympathy with the party to which I belong. The quotation I am now about to make is from the *Dublin Daily Express*, a journal which I need scarcely say has not the slightest sympathy with the Liberal party. The *Dublin Daily Express*, of the 8th July, contains a report

of the proceedings in the Rolls Court on the preceding day, and the Master of the Rolls is represented to have expressed himself as follows—

"May I now inquire, on the part of the public, whether informations have been sworn in respect of the facts disclosed in this case? If so, have any effectual or *bona fide* steps been taken to make any of the parties implicated amenable? Is it intended to prefer a bill of indictment at the next Clonmel assizes, where some of the overt acts were committed? May I further inquire what is the duty of a privy councillor?"

Having read extracts from *Blackstone's* definition of the duties of a Privy Councillor, he goes on to ask—

"Is there anything in the duty, as thus stated, requiring a Privy Councillor to obtrude his advice secretly and unasked, where the responsible advisers of the Government remain passive, and where the general facts were matter of public notoriety, and the details established by the affidavits and documents as much open to the responsible advisers of the Government as they were to me?"

He then makes this statement—

"I did not obtrude advice or information privately, first, because it was no part of my duty; and, secondly, because I believed then, and believe now, that it would have received no attention whatever from the Government for reasons which the public well know. I shall only add that if no *bona fide* proceedings be taken at the next Clonmel assizes, the result will be that the duty of a Privy Councillor and the nature and meaning of the oath will possibly meet with more discussion than the Irish Government may be aware of. There is one other matter which I omitted to advert to in giving judgment, and that is the examination of Mr. James Sadleir by the Master in his private chamber, no other person, as I understand, having been present, except the official manager and his counsel and solicitor. That proceeding has been much disapproved of, and I am satisfied that the Master would now concur with me that it is to be regretted it took place."

I have no doubt that the hon. Member for Mayo (Mr. G. H. Moore) put upon the language of the Master of the Rolls a correct interpretation when he stated that the reasons why the representations of the Master of the Rolls would fail to command the attention of the Government, was that the Government shrink from making James Sadleir amenable, because they knew that, if they attempted to do so, secrets would come to light which would be little creditable to themselves. I must beg hon. Members to observe that the expressions which are liable to this construction did not occur in the delivery of a judgment, but were gratuitous statements of the Master of the Rolls, and entirely uncalled

for. In the *Evening Mail* of July 9 I find that the Master of the Rolls is represented as having made the following remarks—

"In consequence of an accusation which the Attorney General has made against me I shall forward to London, by this night's post or tomorrow morning, a statement in my own vindication, and I regret that in defending myself I shall be under the necessity of bringing a very serious charge against the Attorney General. I shall on Friday state in court what that charge is; and I shall make no statement which I shall not be prepared to prove before a Committee of either House of Parliament."

That statement which was afterwards read in Court, I infer to be the same that reached the right hon. and learned Gentleman the Member for the University of Dublin (Mr. Napier) on the 11th of July. The Master of the Rolls there remarks that I accused him of a breach of duty. Sir, I distinctly disclaim any such accusation. The Master of the Rolls is the Judge of an Equity Court, and in reference to the criminal proceedings of the country has no duty to perform. If in the course of a case heard before him he should be led to the conclusion that a witness has committed perjury, he has a right to direct a prosecution; or if a forged instrument be produced, he may communicate with the law Officers of the Crown, and order that the document shall be placed in the hands of the Crown Solicitor with a view to a prosecution. These are his rights and privileges, but he has no duty as regards the institution of criminal proceedings. If he or any other Equity Judge discloses to the law officers of the Crown, or to the responsible officers of the executive Government, any information leading to the inference that a crime has been committed, he certainly does an act for which the country should feel grateful to him; but he has no duty to perform in that respect. I am sure the hon. and learned Member for Wallingford (Mr. Malins) will bear me out when I say that in Courts of Equity circumstances are every day disclosed, either as to the mode in which deeds are got up, or with reference to the conduct of particular transactions, which might expose the persons concerned to a prosecution for conspiracy; but it is not usual for the presiding Judge either to direct a prosecution, or to take active steps in the preparation of one. On Friday, the 11th of July, a charge is made specifically against me by the Master of the Rolls, who delivers it from the bench of justice,

The Attorney General for Ireland

in the presence of a Court crowded to excess with persons induced to attend by the notice previously given. The *Dublin Evening Mail* contains a report of what the Master of the Rolls said on that occasion; and that it is a true version is very likely, for I am authoritatively assured that it was not printed from notes taken in the Court, but from a manuscript furnished previously either by the Master of the Rolls himself, or by some friend acting on his behalf. That this was the fact seems to be corroborated by the circumstance that printed slips of the Master's speech from the bench were circulated immediately after the speech had been delivered. At all events, there appeared in the *Dublin Evening Mail* what purported to be a report in *extenso* of the judgment of the Master of the Rolls on that occasion. But first let me read the prefatory sentences descriptive of the scene—

"We displace from our law intelligence the following proceedings in the Rolls Court, which took place this day. The Master of the Rolls has, in accordance with the intimation which appeared in our last, most ably vindicated himself from the charge attempted to be fixed upon him by the Attorney General; and it now remains with that learned Gentleman to account, if he can do so, for the supineness which has marked his conduct throughout the whole of the transaction, 'The Rolls Court—this day.—The Court was crowded to excess this morning by members of the bar as well as by the public. So great was the anxiety to gain admission that long before eleven o'clock, the time for opening the Court, the doors were besieged by the crowds, who absolutely forced their way in, and immediately every available place was occupied. Shortly after the Master of the Rolls had taken his seat on the bench he proceeded to pronounce the following observations in reference to the attack made upon him by the Attorney General.'"

This, be it remembered, is not the case of a Judge engaged in the delivery of a judgment and to whom a latitude should therefore be permitted. The case of the Tipperary Bank was not before the Master of the Rolls. This is a written statement delivered from the bench, but wholly unconnected with anything then under the consideration of the Master of the Rolls in his judicial character. This document has been published in all the London morning papers as well as in the Dublin journals. I shall not read the whole of it; I shall pass by a great deal of language of which I have much reason to complain; I shall only quote so much as will enable the House to understand the specific charges from which I have to clear myself,

and the mode in which they have been brought forward. The Master of the Rolls says—

“The Attorney General for Ireland having thought proper to accuse me of being the cause of Mr. James Sadleir's not being amenable to answer the criminal charges which the Attorney General intimates he is prepared to bring forward against him, now that he is no longer amenable, I feel it due to myself to repel that most unfounded and unwarrantable charge; and I regret that, in doing so, I shall have to put the Attorney General on his trial before the public, and I shall state no fact that I shall not be prepared to substantiate before a Committee of either House of Parliament. On the 4th of March the Motion was made before me, under the provisions of the Winding-up Acts, that the affairs of the Company should be wound-up. In giving judgment on that occasion [a report of which was published in several Dublin and London newspapers, and among others, in the *Dublin Evening Mail*, of the 5th of March, 1856], I distinctly adverted to the facts which implicated James Sadleir with the gigantic frauds which had been committed. In the Irish article of *The Times* newspaper of the 10th of March, 1856, there is the following passage:—*The Leinster Express*, alluding to the connivance of Mr. James Sadleir at the tremendous frauds brought to light in the Rolls' Court says:—“It is said that that gentleman has already fled from the impending storm, but we trust that this is not the fact. The shareholders owe it to themselves and to the cause of public justice that the surviving fabricator or fabricators of the swindling report should not escape a criminal prosecution, and if Mr. James Sadleir and his coadjutors, whoever they may be, have not already gone, it is right that measures should be taken to prevent their leaving the country.” The Attorney General had no sympathy with these poor people, and closed his ears and shut his eyes to everything which was said or written in relation to the Sadleir frauds. The Attorney General, who had fallen asleep from the 4th of March to the 3rd of June, notwithstanding that every newspaper which he took up must have suggested to him the duty which he had to perform, awoke on the last-mentioned day in consequence of my observations, and an electric telegraph message was sent from London to the registrar, or some other person, to know when I should give judgment. Having intimated that I would not give judgment for some time the Attorney General turned his head upon his pillow, and again fell asleep. I am now about to state facts which the Attorney General cannot get rid of by any sophistry or mystification. On Tuesday, the 8th of this month, I applied to Mr. Meldon, the solicitor for the official manager (the official manager being absent from Dublin on business connected with his office), to know when the Attorney General, or any person on his behalf, first applied for copies of any of the affidavits or documents filed or lodged in the Master's office in this matter. On the 14th of June, 1856, a copy of John Sadleir's celebrated letter to his brother, James Sadleir, was given to the Crown Solicitor by Mr. Meldon. Surely that letter was calculated to arouse any person except the Attorney General. He, however, remained as little alive to the Sadleir frauds as he had been before. On the 20th of June, I gave judgment. The result is this:

—The Attorney General took no step whatever against James Sadleir until after I gave judgment on the 20th of June, although the judgments I had given on the 4th of March and the 3rd of June imposed a distinct duty upon him to do so. The letter of John Sadleir, of which he was in possession on the 14th of June, rendered it the more his duty to proceed. When did James Sadleir cease to be amenable? The Attorney General says, on the 17th or 18th of June. I believe he was amenable after I gave judgment on the 20th of June, but I shall assume that the Attorney General has been accurately informed of Mr. James Sadleir's movements, and that the date of the 17th or 18th of June is correct. How does the Attorney General account for having taken no step from the 4th of March to the 3rd of June? Every document connected with the bank was in the custody of the official manager from the time of his appointment, although John Sadleir's letter was not found until after the 3rd of June. If there was any excuse prior to the 3rd of June, what justification was there for taking no proceedings against James Sadleir from that date until after the 20th of June? The letter of John Sadleir, which the Crown Solicitor was furnished with a copy of on the 14th of June, should have awakened the Attorney General if anything could have done so. Who is responsible that no proceeding was taken against James Sadleir from the 3rd of June until after I had given judgment on the 20th of June? No amount of mystification can get rid of that plain inquiry. The real history is this,—the Master had exonerated James Sadleir on grounds which the public do not understand. There was abundant evidence against James Sadleir, independently of John Sadleir's letter, which was not found until after the 3rd of June. The Attorney General paid no attention to the observations made by me on that day, which showed that I had come to an entirely different conclusion from the Master, although I had not seen John Sadleir's letter. The Attorney General thought, I presume, that I should not be able when giving judgment to substantiate the statement I had made; and he remained passive until the judgment I gave on the 20th of June rendered it plain that he must cease to hold office, or perform his duty to the public. It was, however, according to his statement, then too late. James Sadleir, he says, is no longer amenable, and that he has not been so since the 17th or 18th of June; and he thinks it just and proper to cast the responsibility on me that he is not amenable?”

I shall not trouble the House by going through all the details of the argument or the other personal observations of the learned Judge. I think I have read enough for the object I have in view, namely, to let the House understand the nature of the imputations; and from the last sentence I have quoted nobody can doubt that the Master of the Rolls, from the bench of justice, intended to and did convey the charge that, for some reason or another which I suppose he presumed the public would comprehend, the Government connived at the escape of James

Sadleir and forbade his prosecution—that I, as the responsible organ of the Government, obeyed its mandate, favoured that escape, and only by the positive danger of losing the office which I hold was at last forced to perform the duty I owed to the public. I say with the most unaffected candour, that if one tittle of that accusation were fairly chargeable upon me—if I were to leave one word of it unanswered, I should be utterly unfit for the office now entrusted to me. Let me tell the House what interpretation was put upon the language of the Master of the Rolls. I believe that in the entire history of jurisprudence—in the annals of any Court of Justice in this country, you will look in vain for a parallel to the proceeding of the Irish Master of the Rolls on the 11th of July. I would confidently appeal to the right hon. Gentleman the Member for Oxford (Mr. Cardwell), who avowed himself, the other night, a friend of the Master of the Rolls—I would appeal to him, although I cannot call him my friend, as a gentleman and a man of candour, which I know him to be, whether he can stand up in his place in this House and—I will not say defend, but—palliate or excuse the unprecedented course taken by this learned Judge. Indeed, I have endeavoured to bring myself to the conclusion that the Master of the Rolls must have been irritated and excited by some gross misrepresentation of what occurred in this Assembly a few days previously, and that if he had known what really took place, he never could have allowed himself such extraordinary licence. I shall read from a Dublin paper of the following morning the construction given to the language of this learned Judge, and to the charge from which I have to vindicate myself. On Saturday, the 12th of July, alluding to the transaction before the Master of the Rolls, this journal says:—

“We have no hesitation in stating our deliberate belief, and in declaring that it is the conviction of all men in the country—lay and professional—that the Attorney General has delayed and declined to prosecute, and has permitted to escape a transportable felon, and that he has done so for private or party motives.”

Sir, I think it is impossible for any Gentleman in this House to be called upon to repel an accusation more grave or to be charged with conduct more base or more abominable than that here ascribed to me. With these preliminary remarks I shall now proceed to state to the House the

The Attorney General for Ireland

course which I have pursued, and to offer that complete exculpation of myself which I am enabled to submit. I refer, in the first place, to the 4th of March, as the earliest date in this case. One of the imputations cast upon me by the learned Judge is, that on that day he pronounced a judgment which ought to have roused me from my torpor, and taught me my duty to the public. I have searched for that judgment, and I now extract it from *The Times*—a journal from which I hope I shall be excused for making most of my quotations. The death of the unhappy gentleman who committed suicide in London in February last, led to disclosures with which at present we have nothing to do. It is, however, placed beyond a doubt that that unfortunate man was guilty of the grossest crime—forgery and frauds of various descriptions; and shortly after his decease the Tipperary Bank, with which he had been connected, and to which he was indebted to an amount exceeding £200,000, stopped payment. The consequence was that one of the shareholders presented a petition to the Court of Chancery under the Winding-up Act, with the view of having the Bank dissolved, its property, such as it was, realised, and the deficiency made good from among the contributories. This petition came in the ordinary course before the Master of the Rolls on the 4th March; and it appearing from the affidavits before him that the proceedings were promoted by the solicitor who had previously acted as solicitor for James Sadleir, the Master of the Rolls, in giving his judgment, observed—

“The late John Sadleir was permitted by his brother, the sole director and manager of the bank, to overdraw his account to the extent of £200,000, without the knowledge, consent, or privity of a single other contributory or creditor, so far as this Court has heard or knows. The liabilities of the bank are altogether, in round numbers, £400,000; it was in a state of the most hopeless insolvency on the 1st of February last, and the assets are not pretended to be more, in round numbers, than £35,000.”

This is the judgment to which the Master of the Rolls subsequently referred, and which I did not see until, in consequence of his observations the other day, I looked for it, and found it. It may be matter of blame in me, holding the office which I do, that I did not read the Irish papers so regularly as I ought to have done; but I can only state that, up to the time when my attention was first called to this judgment, I had never seen it. Assuming,

then, that the circumstances stated by the Master of the Rolls were perfectly true, such is the defective state of the law, that James Sadleir does not appear, upon that statement, to be guilty of any offence that would bring him within the reach of the criminal law. The charges against him were twofold. First, that, being the managing director of the Tipperary Bank, he had been guilty of a gross breach of trust, in permitting his brother to obtain assets of the bank to an amount exceeding the sum of £200,000. No doubt that was a gross breach of trust with regard to the shareholders of the bank and its creditors, but, like many other breaches of trust, it did not bring James Sadleir within reach of the criminal law. It was said, secondly, that James Sadleir prepared the flourishing but false statement issued in the month of February; but, assuming that charge to be true, it would not render him amenable to a court of criminal jurisprudence. The result of investigation has been to show that the criminal law of the country is, in this respect, in a most unsatisfactory state. You cannot punish frauds of this kind directly, but there is a circuitous course which partakes more of the nature of a civil than of a criminal proceeding, namely, that if parties have, by means of common agreement, effected an object sometimes lawful but sometimes unlawful, they may be indicted for conspiracy for the illegal agreement. I am satisfied that no lawyer who hears me, and who is acquainted with the criminal law, will entertain any doubt that, assuming all that the Master of the Rolls stated on the 4th of March to be true and capable of proof, he had disclosed nothing which brought James Sadleir—however morally culpable—within reach of the arm of the criminal law. I have read the reports in several newspapers, and I do not find the slightest allusion by the Master of the Rolls to any criminal proceeding whatever. It may possibly be said that I was chargeable with some neglect in not having read the judgment delivered by the Master of the Rolls on the 4th of March; but I may inform the House that on the 5th of March I received from the Master of the Rolls a letter written by him on the previous day (the 4th), immediately after he had delivered his judgment. I dare say the right hon. and learned Gentleman (Mr. Napier) expects to find in that letter some allusion to the Tipperary Joint-stock Bank case. At the time the letter was sent to me

I was—I will not say, on terms of intimacy with the Master of the Rolls—but I knew him, and there had never passed between us, upon any occasion, a single discourteous word. On the 4th of March, the Master of the Rolls wrote me a letter, dated “Merriion Square, Dublin,” in which he said, “My dear Solicitor, I have just received your letter. I have only concluded the business at the Rolls to-day.” The Master of the Rolls had then just delivered the judgment which has been referred to. I need not trouble the House with the remainder of the letter, which was a reply to a communication I had addressed to the Master of the Rolls, with reference to the proceedings of a Committee on the reform of the Court of Chancery, which was then sitting, and of which I was chairman. I merely allude to this letter because, being sent to me as Solicitor General by a Judge who communicated with me on terms of friendly courtesy, addressing me as “my dear Solicitor,” and being written only a few minutes after he had delivered his judgment, it might naturally be supposed that if he then thought it the duty of the executive to institute a criminal prosecution he would assuredly have expressed such an opinion in his letter. As the Master of the Rolls failed to do so, the case was not one likely to attract my attention. I replied to that letter, and I received another letter, written by the Master of the Rolls upon the same business on the 25th of March, stating that he would be in London, and would meet me here on the 31st of March. There is not in that letter either the slightest allusion to the Sadleir frauds or to the duty of the Government. I had gone to Dublin about the 11th of March, and I remained there till the 30th. On the 31st, I believe, I resumed my place in this House. I then saw the Master of the Rolls here, and I conversed with him under the gallery for more than an hour on the subject of the Committee to which I have previously referred. I undertook to procure for him certain papers to enable him to give evidence which would be beneficial to the public. I sent those papers to his hotel; I had several communications with him; but neither in his personal communications nor otherwise did he ever suggest that any steps should be taken on the part of the executive. He never said, “Mr. Solicitor General, I wish to call your attention to the Tipperary Bank case, or to my observations on the 4th of March,

which will show you that you have a duty to perform." Well, Sir, on the 2nd of April I was obliged to leave London, the noble Lord at the head of the Government having offered me the office of Attorney General for Ireland, which I accepted, though I did not formally enter upon the discharge of its duties until the 14th of April. Pressing business was immediately forced upon me. I had to conduct the prosecution in the case of the murder of Miss Ilands and other cases at the special commission; and so urgent and pressing were my engagements that I was obliged to sacrifice all personal considerations, my constituents even re-elected me in my absence—an act for which I cannot be too grateful to them. On returning to my place in this House, on the 16th of April, I received from the Master of the Rolls the papers with which I had furnished him, along with a complimentary note, which I am unable to read, as it was thrown aside; I only allude to the circumstance to show that, up to that time, I had never received the slightest suggestion from him that I had any duty to perform. It may be said possibly that the Master of the Rolls did not apply to me previously to this time because I stood then in the position of Solicitor General, but that he would apply to the Attorney General. Let it not be supposed that I wish to shrink from the least responsibility. I accept it most cheerfully. On the 4th of March my late colleague (Mr. Justice Keogh) was absent at the assizes, and he only held office until the 2nd of April, and, in justice to him, I must say that I cannot describe in language too strong the assiduity with which he discharged the duties of Attorney General during the time—upwards of a year—which I held office with him. I think, however, if the Master of the Rolls had thought the attention of the Irish executive ought to be directed to the Tipperary Bank case he would have made some allusion to the subject in the frequent communications that took place between us. I am now covering the period from the 4th of March to the 3rd of June. It appears that the Master of the Rolls having made an order for reference, after the 4th of March the case went into the office of Master Murphy. The Masters in Chancery in Ireland, I may observe, stand in a position somewhat differing from that of Masters in Chancery here. In Ireland their position more nearly resembles that

of a Vice Chancellor; they have original and very extensive jurisdiction. The case, as I have said, went into Master Murphy's office, and on the 19th of March he held a private examination of Mr. James Sadleir, the person against whom a charge is now made. I only allude to this circumstance, as showing that if Master Murphy had reason to think that the parties before him wished to prosecute Mr. James Sadleir for any crime connected with the administration of the Tipperary Bank, that private examination was a most unwarrantable proceeding. There were at that time several parties who might prosecute—the Irish shareholders, the English shareholders, and the creditors. Any of these parties might have instituted a prosecution against James Sadleir, but they were the parties who set the matter in motion for a private examination, with the view of discovering property which might be available for them, and I believe I do not make any misrepresentation in stating that at this very moment those three classes of persons—or, at least, two of them—are entirely averse to a prosecution of James Sadleir. Before I proceed I may be allowed to explain that great misconception exists with regard to the position of the Attorney General for Ireland. I heard the other day, to my great surprise, from an hon. Member, that he supposed, as Attorney General, I had nothing to do but to go to my office and write a warrant for the arrest of James Sadleir. I am happy to say that that supposition is unfounded, and that in that respect the Attorney General for Ireland possesses no greater power than the meanest individual in the land. It is one of the principles of our glorious constitution that the meanest subject cannot be deprived of his liberty—unless he is detected in the actual perpetration of a felony—without a warrant, and that warrant can only be issued upon sworn informations before a magistrate. The Attorney General for Ireland occupies a most responsible position, and has most onerous duties to discharge, but generally speaking he originates no proceedings. If a crime has been committed, cognizance is taken of the matter by the resident magistrates, or by the constabulary. Informations are taken before magistrates, and if the cases are returned for trial those informations are laid before the Attorney General, whose duty it is to read them all, and to pronounce his rule on each case, whether

a Crown prosecution should or should not be instituted. It is not, however, the practice to conduct prosecutions at the public expense except in cases where the public peace has been broken. It is not the practice to prosecute at the public expense in cases of private fraud. One remarkable instance, illustrative of this, occurred about ten years ago, when a stockbroker who had been guilty of extensive and gross frauds was prosecuted, not by the Attorney General, but by private prosecution. If, for example, a forgery is committed on a bank, the individual or individuals accused are not prosecuted at the expense of the public, unless there are some extraordinary circumstances connected with the transaction. However, to return to the case on the 17th of March, James Sadlier underwent a first examination before Master Murphy, and a second on the 23rd, and on the 28th of March Master Murphy gave his judgment. Up to that date, as I have shown, no creditor, or shareholder had lodged any complaint; no one had given information or taken any steps whatever to put the law in motion, though it was open to any one of the parties interested to have done so. On the 28th of March, Master Murphy delivered his judgment, from which I shall read the following extract:—[The right hon. and learned Gentleman here read an extract from the judgment of Master Murphy, to the effect that, according to strict legal principles, the evidence was not sufficient to lead to a charge of fraud against James Sadlier.] Such was the opinion of the Master, and then he went on in an elaborate and able judgment to acquit James Sadlier of any participation in the frauds of his brother. But the House will remember that up to the 3rd of June, and for ten days afterwards, the remarkable letter of John Sadlier, dated the 21st of December last, had not been discovered. The judgment of Master Murphy was appealed against to the Master of the Rolls. The hearing lasted five days, and on the 3rd of June the Master of the Rolls made those observations which constitute one of the attacks that have been so much commented on. The House will observe that up to this time there was no ground on which to institute a prosecution against James Sadlier; no one had complained or urged prosecution, and Master Murphy had acquitted him of all participation in the frauds of his brother. I shall now account for the transactions from the

3rd of June to the 20th of June. On the 3rd of that month the Master of the Rolls made the following among other observations:—

"Although, as I have stated, I intend to consider this matter attentively before giving my judgment, still there is one question which I consider it to be a duty due by me to the public to pass my opinion on at present. I wish to express my unbounded astonishment that the Irish Government have not thought fit to take any notice of this case. It is of the last importance to the interests of both parties that they should do so; and if they choose to remain quiescent, and shrink from the duty that devolves upon them, of placing this case before the prosecutors for the Crown, I think that they will be guilty of a gross dereliction of duty. When giving judgment I purpose to enter into the facts at considerable length, and I undertake to prove that, if the Government determine upon continuing to be quiescent, they can have no right to complain if the public charge them with connivance at conspiracy. I repeat that the Government must interfere. They may, perhaps, pretend ignorance of the law that is applicable to this case, but I will now lay it down for them distinctly."

That statement appeared in the Dublin newspapers on the 4th of June, and the House will observe that the Master of the Rolls says in it he "had a duty to the public" to perform, which coerced him to give such observations to the world. The learned Judge, let me observe, owed a duty to the Crown, and, if he owed a duty also to the public that duty would have been best performed by putting himself in communication either with myself or my learned colleague the Solicitor General for Ireland, or, if there was any cause why he was offended with me, he might have communicated with the responsible officers who took charge of all public prosecutions. In the course which he took, however—in honestly performing the duty which he supposed was incumbent upon him—the learned Judge did that which must have been more successful than any other he could have adopted in driving the criminal beyond the reach of the law. He says I was at last roused from my sleep, and sent a telegraphic message to ascertain when he (the Master of the Rolls) would deliver judgment; and then, on receiving an answer, I fell asleep again. Now, Sir, nothing can be more unjust or unfounded than this, and my only excuse for the learned Judge is, that I believe he must have been misled by a gross misrepresentation of the facts. I saw the judgment of the Master of the Rolls accidentally on the 6th of June, when a copy of the *Freeman's Journal* reached my hands. On receiving that

paper I cut out the statement said to have been made by the learned Judge, and wrote to the Crown Solicitor the letter which I now hold in my hand. Let me state for the information of the House, that the Attorney General for Ireland has under him certain officers called Crown Solicitors, whose duty it is to conduct criminal prosecutions. The gentleman at present holding the office in Dublin is Mr. William Kemmis, of whom I am bound to speak with the greatest respect, and who discharges his duties with untiring diligence and trustworthiness. There can be no concealment of anything here, for Mr. Kemmis is a gentleman who never allows political feeling to interfere with his duty, and I may add, that his political views are not at all in accordance with those held by me. On the 6th of June, then, I wrote to him this letter, and I consider it so very important to my case, that I must intrude on the time of the House by reading it.

"Irish Office, Whitehall, June 6, 1856.

"*'Tipperary Joint-Stock Bank Winding-up.'*

"My dear Sir—I have just received a copy of the *Freeman's Journal* of Wednesday, and have cut from it a report of some observations of the Master of the Rolls, represented to have been made in the course of the discussion of the appeal in this case. I annex the extract to this letter.

"At the present moment I am entirely uninformed as to the facts on which his Lordship's observations are based; but I assume that he would not have given utterance to opinions so strong, if the evidence before him did not make it a duty to do so.

"The ordinary course for a Judge to pursue under such circumstances is, to make an order that the parties shall hand over the documents, &c., to the Crown Solicitor to be laid before the Attorney General for his direction, and probably when the learned Judge comes to deliver judgment he will adopt that course.

"In a case, however, of such importance, I wish that in the meantime you should take some preliminary steps, so as to be in a position to act with promptitude and decision.

"I have already telegraphed to you to ascertain when the Master of the Rolls is to deliver judgment on the appeal—my present intention being to be represented by counsel on that occasion—and I desire also that you should put yourself in communication with the official manager and his solicitor, and with the solicitor for the appellants, with a view to ascertain whether they can place at your disposal any materials to guide my judgment as to the future course to be pursued.

"I shall be ready to proceed to Dublin myself if necessary. Believe me, &c.,

J. D. FITZGERALD.

"The Crown Solicitor, &c."

That letter was written on the moment after I had seen the observations of the Master of the Rolls, and sent by the late

The Attorney General for Ireland

post on the 6th of June. The House will observe that this was the only step I could take, and that it was taken within half an hour of the time I first read the observations of the Master of the Rolls. In the office I hold I have grave and important duties to perform, duties enough to occupy my whole time even if I had no Parliamentary duty to discharge, and in this matter I could only act through my subordinates. Accordingly, in plain, specific, unambiguous language, I gave my directions to the Crown Solicitor, and that gentleman followed out with diligence the directions he had received. I received from the Crown Solicitor a letter dated the 7th of June, from which I extract the following:—

"45, Kildare Street, Dublin, June 7.

"My dear Sir—I received your letter this morning with an extract from the *Freeman's Journal*, of Wednesday last, containing a report of observations said to be used by the Master of the Rolls in reference to the affairs of the bank. The expressions are very strong indeed, and have been a good deal commented on here. I intimated to you by telegraph yesterday, that his Honour will deliver judgment in the case in the course of the ensuing week. That no day had been definitely fixed, but that he would give intimation a day or two before.

"I have only to add, in conclusion, that I shall be prepared to give my best attention and co-operation to such directions as I may receive from you on this subject."

Accordingly, the Crown Solicitor put himself in communication with all the persons concerned, including Mr. Macdonall, the official manager; Mr. Meldon, his very intelligent solicitor, and the solicitor for the English shareholders, requesting that they would furnish him with all the information that was in their power. It is quite clear that I could not act on the judgment of the Master of the Rolls. I had to ascertain that a crime had been committed before I could be justified in putting forth the arm of the law against a delinquent. Having stated in the letter which I addressed to the Crown Solicitor, that I was prepared to proceed to Dublin, I accordingly took advantage of there being no pressing business on the paper for Wednesday, the 12th of June, and left on the 11th of June for Dublin, in order that I might hear the Master of the Rolls' judgment. I arrived in Dublin on the 12th of June, and on that day found that the Master of the Rolls had postponed his judgment till the following week. Now, Sir, what did I do on my arrival in Dublin? I sent for the Crown Solicitor, and asked him whether he had

been able to get any information. He told me that he had not; that he had received a letter from Mr. Meldon, the solicitor to the official manager, requesting him to wait until the Master of the Rolls had delivered his judgment, when he would put all the documents into his possession. I then asked him whether he had not been able to get any witness to make a preliminary information? He replied that he had not. Being obliged myself to return forthwith to London, and knowing that my learned colleague the Solicitor General had a great deal of business to attend to, and that perhaps he had not as much experience of the administration of the criminal law as some other legal Gentlemen have had, I thought it advisable to hold a conference with him on the same day, in order that he might be put in possession of the facts, and, being on the spot, might be able to give directions. I have the most entire confidence in the learning; skill, and judgment of my learned colleague the Solicitor General, and I believe no Attorney General for Ireland was ever more fortunate in his colleague than I have been. He was selected, not for his political opinions, but solely for his merit—I say emphatically solely for his merit—and I am happy, indeed, in the possession of such a colleague. I thought it desirable to have a conference with him, and I knew it would be agreeable to him, as I could not myself act with him on the spot, that in the difficult and complicated case which might arise he should have some assistance. Well, Sir, whom did I select for his assistant? The ablest man, I believe, for such a case that the Bar of Ireland could furnish. I selected a gentleman whom the right hon. and learned Member opposite (Mr. Napier) alluded to the other evening as his highly-valued friend—I mean Mr. Brewster. I speak of that very learned gentleman with the utmost confidence, and I believe at the Irish bar he stands pre-eminently in the first position, both as regards his practice and his experience. Well, Sir, I put myself in communication with Mr. Brewster, and solicited him to assist the Solicitor General in this case. We held a conference on the day in question; I unfolded my views, and, according to a minute of the conference which I have before me, the result which we—that is to say, the Solicitor General, Mr. Brewster, and myself—came to was, that, having no materials upon which to form an opinion as to whether or not there was any

evidence to maintain a criminal prosecution, we could take no further steps until after the Master of the Rolls had given his judgment. That was on the 12th of June; the judgment was expected early in the next week. At that time no party had been named, though James Sadleir was known to be the individual implicated; but, under the circumstances, having no documentary or other evidence upon which to found ourselves, we deemed it expedient not to attempt to make any person amenable under the criminal law until the Master of the Rolls had delivered his judgment. I set out on my return to London the same day, leaving full and explicit directions behind me, leaving the case in the hands of my learned colleague the Solicitor General and of my junior counsel, together with the right to call in the assistance of Mr. Brewster whenever necessary. I ask any Gentleman who hears me to say whether I omitted any step which the most prudent and most active officer could have taken? But I have not told the House all. I directed that, in order that we might be put in a position to form a judgment in this difficult and complicated case, a renewed application should be made to Mr. Meldon, the Solicitor to the official manager of the Tipperary Bank, for all the information in his power. That was done, and I hold in my hand the letter which Mr. Meldon addressed to Mr. Kemmis, the Crown Solicitor, on the 14th of June, in reply to that renewed application. It is to the following effect:—

“Chambers, 14, Upper Ormond-quay, Dublin,
“Saturday, June 14, 1856.

“Ro Tipperary Bank.

“Dear Sir,—There are 150 affidavits in this case, and it would be a most laborious undertaking to wade through them all. The Master of the Rolls will give judgment on Wednesday, and you will then be able to select those you require; I would therefore suggest the prudence of your waiting until then. Besides, the briefs are with counsel, and I could not with convenience give you the copy sooner. Yours truly,

“W. Kemmis, Esq.”

J. D. MELDON.

That letter is dated the 14th of June, and yet the Master of the Rolls makes it a charge against me that having been roused from my sleep on the 3rd of June, I did nothing until he had delivered his judgment on the 20th. If I did nothing it was because there was no information available, because I could not obtain possession of the documents, because on two occasions Mr. Meldon, the solicitor to the

official manager, told us to wait until the Master of the Rolls had delivered his judgment, when we could obtain a knowledge of all the facts. But the House will perceive that it is not correct to say that I took no steps between the 3rd of June and the 20th. In addition to what I have already told the House, I have to state that, in consequence of an application to another gentleman, a brief of the affidavits was prepared on the 15th of June, and was with me in London shortly afterwards. It was not a pleasant duty to perform, but I read the whole of the 150 affidavits—I waded through every one of them. Moreover, Mr. Kemmis having got a copy of the remarkable letter from John Sadleir to his brother, James Sadleir, which was discovered somehow or other on the 15th of June, sent it to me in London. I received it on the 16th, and the moment I read it I saw it was a very important document, and might probably be made the ground of a proceeding against James Sadleir. Still nothing effectual could be done until the Master of the Rolls had delivered his judgment, because until then Mr. Meldon would not give the Crown Solicitor the documents; and though the letter of John Sadleir might form the foundation of any proceeding that might be ultimately adopted, yet by itself it was worth nothing, being merely evidence of a previous agreement between the two brothers for the accomplishment of a fraudulent purpose. On the same day—the 16th of June—I wrote to the Crown Solicitor to the above effect, and in that letter, after some directions with which I need not trouble the House, I said, “I shall be ready to proceed to Dublin when required, and in the meantime would desire to be kept fully informed of the proceedings.” I could only act through my subordinates; I was obliged to leave the case in their hands, always subject, of course, to my directions, requesting them at the same time to keep me fully apprised of their proceedings. Having thus accounted for the interval between the 3rd of June and the 20th, I proceed to state that on the 21st I was informed of the judgment given by the Master of the Rolls on the preceding day, my informant being Mr. Thomas Kemmis, Crown Solicitor on the Leinster circuit, and son of the gentleman to whom I have so frequently referred. Mr. Thomas Kemmis is a gentleman of whom I would desire to speak with the greatest respect. He was appointed by the right hon. and

The Attorney General for Ireland

learned Gentleman opposite (Mr. Napier), and one of my first acts in this House was to bring under its notice the circumstances connected with his appointment, which I believe I ventured to designate as a “job.” On that occasion, however, I took care not to disparage the character of Mr. Kemmis, and I am bound to say that I have never met with a more active, intelligent, or efficient public servant. During the progress of this case I have received from him the most valuable assistance, although it was not in the line of his duty. On the 21st, as I have said, I received a letter from him containing his description of the judgment of the Master of the Rolls, delivered on the previous day, and stating that he had sent me a copy of the *Evening Mail* containing the judgment in full. The *Evening Mail* did not arrive, but without waiting until it reached me, I despatched a letter to Mr. Kemmis, by the earliest post, containing the following instructions:—

“Irish Office, Whitehall, June 21, (2-30).

“Tipperary Joint-stock Bank.

“I have just received yours of yesterday, but the copy of the *Mail* containing report of judgment has not arrived.

“I entirely approve of the course pursued by Mr. Donohoe, and of your having a conference with Mr. Solicitor and Mr. Brewster.

“With my imperfect knowledge of the case, it would be dangerous if I were to attempt from this place to direct proceedings; you had better, therefore, receive your immediate directions from Mr. Solicitor, but keep me as far as possible apprised of all steps to be taken.

“It seems to me that there is a case on which Mr. James Sadleir may and ought to be prosecuted for a conspiracy, and that it is of that magnitude and serious character as to render it expedient that the prosecution should be at the instance of the Crown, and under the direction of the Attorney General.

“The question of venue is, then, to be considered; as yet I see no evidence of an overt act, in pursuance of the conspiracy committed elsewhere in Ireland, than in the South Riding of the county of Tipperary.

“If the trial is to take place there, can you be ready in time for approaching assizes at Clonmel? For many reasons it would be desirable that this case should be brought to a speedy issue, and not deferred until the Spring Assizes of 1857.”

Now, Sir, I am accused of endeavouring to evade my duty. Here is my answer to that charge; here are the directions which I gave at the time under the full idea that James Sadleir was still amenable; and, among other reasons, with the view of providing this House, in considering the expediency of his expulsion (which would have followed as a matter of course upon his conviction), with the legal and constitu-

tional means of acting as in its wisdom it might seem fit. The House will observe that I say in my letter, "It would be dangerous if I were to attempt from this place to direct proceedings; you had better, therefore, receive your immediate directions from Mr. Solicitor." Mr. Kemmis had also the assistance of my junior counsel, whose talents and skill are well known to the right hon. Gentleman opposite, and are, indeed, beyond dispute. That letter of mine arrived in Dublin on the 22nd of June, and on the previous day the Solicitor General, Mr. Brewster, and the junior counsel, had held a consultation. Now, whatever may be my defects, no one, I am sure, will accuse my respected colleague, or Mr. Brewster, of any complicity in this transaction—their characters stand too high, and the latter certainly is not a sympathiser with the present Government. Well, those learned Gentlemen met upon the 21st of June, they had before them a brief of all the affidavits, and they came to the conclusion that James Sadleir had, indeed, committed a crime, but that it was a crime of a peculiar character—that is to say, that he was chargeable, not with his brother's misdeeds of forgery, or perjury, or fraud, but that he had agreed with his brother to pass off certain shares of the Tipperary Bank to English shareholders by means of false representations as to the state of the accounts, by publishing a false balance sheet, and what I may term fabricated and chimerical accounts. The charge against him, then, was not one of felony but of conspiracy, which is a misdemeanor, the person guilty of it being liable to imprisonment for two years. James Sadleir was not chargeable with the frauds of his brother John, except with relation to the Tipperary Bank; and in that case the crime went only to the extent of conspiracy, for having "agreed" with his brother; because, I regret to say, that the publication of false accounts is no crime cognisable by the law. Those learned gentlemen then came to the conclusion that, though an offence had been committed, it was not one in which the Crown ought to prosecute. In the meantime, however, my letter of the 21st, stating a different opinion, was on its way to Dublin. It arrived on Sunday, the 22nd, and, in consequence of it, Mr. Kemmis called upon those gentlemen to meet again. They did meet again, upon Monday, the 23rd; they reconsidered the case,

and I have now in my hand the minute of their conference, which contains matter of such importance that I must ask the indulgence of the House while I read it.

"The Solicitor General, Mr. Brewster, Q.C., and Mr. Donohoe (with Mr. T. Kemmis, Crown Solicitor, in attendance), having met in consultation, are of opinion that though the facts stated by the Master of the Rolls, in his judgment 'In re Ginger,' would, if satisfactorily proved, establish a *prima facie* case, upon which a prosecution for conspiracy could be sustained against James Sadleir, yet are further of opinion that the case is not one to call for the interposition of the public prosecutor.

"Viewing the question as a legal one, it appears more than doubtful whether such a prosecution would be successful; it could not be sustained without the evidence of persons referred to in the judgment of the Master of the Rolls, who themselves participate in the criminal acts enumerated, and who would therefore be at liberty to withhold their evidence on the ground that it might criminate themselves, an objection of which it is probable that they would avail themselves. It would also appear that the greater part of the information upon which the charges of fraud and conspiracy are founded was obtained from the persons implicated, including James Sadleir, and that they made those disclosures before a Master of the Court of Chancery, in aid of the winding-up proceedings, without receiving any caution, and probably upon a reasonable expectation that statements made under such circumstances would not be used for the purposes of a criminal prosecution. It has not, heretofore, been the practice in Ireland for the public prosecutor to institute prosecutions against persons accused of frauds on individuals; such cases have been left to the parties aggrieved; and though from the extent and magnitude of the frauds imputed, this case might at first sight appear to be an exceptional one, yet as none of the persons defrauded have come forward to prefer any accusation, it seems inexpedient to depart from the general rule. The fact that no one has sworn informations, or taken any step to institute a criminal prosecution, affords a strong presumption that those who are most interested in the matter consider it would not be prudent to take such a course; and though, in the administration of criminal justice, the public prosecutor's duty is to act without reference or regard to the wishes or feelings of individuals, yet this is only within his proper sphere of action, and ought not to be extended to cases like this, where the crime imputed is not in the proper sense one against the public, but a fraud on individuals. It is not to be overlooked that all those who participated in the frauds charged are now assisting the official manager in his endeavours to wind up the concern, and realise something for the creditors; and it is not impossible that a criminal prosecution would seriously affect his proceedings, and tend to inflict a further pecuniary loss upon the creditors and other sufferers by the bank.

"Under these circumstances, and especially considering the limits within which the public prosecutor in Ireland has hitherto acted in instituting criminal prosecutions at the public

expense, this case does not call for his interposition.

(Signed)

" J. CHRISTIAN,

" A. BREWSTER,

" THOMAS DONOHUE.

" June 23rd."

That document was forwarded to me on the same day, and it reached me on the 24th of June. Having carefully perused it, I am bound to say, that not alone is there great weight in the reasons which are given for the conclusions at which those three very learned gentlemen arrived, but I may add, that in this country, a Crown prosecution, under similar circumstances, would never have been thought of. In proof of this I may refer to the recent case of Strahan, Paul, and Bates, in which not the Crown but the injured individual prosecuted; and to the much older case of Lord Cochrane—which was a charge of a very grave description, although circumstances have since been brought to light tending considerably to relieve the character of his Lordship—in which the prosecution was instituted by the Committee of the Stock Exchange. Well, as I have previously said, that document reached me on the 24th of June. I read it carefully, and I did not agree in the opinion at which those learned persons arrived. I thought that there were reasons which had been overlooked, and that, having regard to the magnitude of the case, to its complication, and to the shock that had been given to public credit by it, it was a case in which the Crown ought to prosecute, and I did not hesitate, therefore, on my own responsibility, to overrule that opinion. Having, then, on the 24th of June considered the case with great care and labour, and having come to the conclusion which I have stated, I communicated with my right hon. Friend the Secretary for Ireland, who agreed with me in opinion. I did more. I waited on my right hon. Friend the Secretary of State for the Home Department; I stated what my views were, and I added that I was prepared to act on my own responsibility; but I said that as I was overruling the opinion of two such high authorities as Mr. Brewster and the Solicitor General, it was only fair to them that I should have a conference with the Attorney General for England. I called on my hon. and learned Friend for that purpose, but the 26th of June was the first day on which my hon. and learned Friend could meet me. We met in conference and considered the case.

The Attorney General for Ireland

I explained my views fully to him, and he agreed with me. He said, " You are right. You have taken the true view of the case," and by post the same day I communicated to the Crown Solicitor, laying my mandate on him that there should be a Crown prosecution. I stated at the commencement of my observations that nothing in this case should rest upon my recollection only, and I have now before me a copy of my letter to the Crown Solicitor, written on the 27th of June, a portion of which I will read. It is as follows—

" Tipperary Joint-Stock Bank Winding-up.

" Irish Office, Whitehall, June 27, 1856.

" I thought it expedient to have a consultation with the Attorney General for England in relation to the course to be pursued by the Crown in this case. Sir Alexander Cockburn, Mr. Donohoe, and I met yesterday, and on a full consideration of all the circumstances brought under our notice by Mr. Donohoe, and reading the report of the judgment of the Master of the Rolls, and the minutes of consultation held in Dublin on Saturday and Monday last, we came to the conclusion that Mr. James Sadleir ought to be prosecuted for conspiracy, and that such prosecution should be instituted and conducted by the public prosecutor, that is, by the Attorney General. You must, therefore, at once proceed to make the requisite inquiries, and take the necessary steps to have Mr. James Sadleir amenable. The principal informant for that purpose should be Mr. William Kelly, late manager of the Tipperary Bank.

" I enclose a memorandum from Mr. Donohoe, giving a sketch of the heads to which Mr. Kelly's information should be directed.

" I think that it would be practicable to obtain a warrant against Mr. Sadleir, on the information of Mr. Kelly alone.

" I write now in haste.—Yours faithfully,

" J. D. FITZGERALD.

" The Crown Solicitor."

On the 28th of June that letter was in the hands of Mr. Kemmis; but I have described Mr. Kemmis to you as an active officer—did he do nothing in the interval? [The right hon. and learned Gentleman, having read a journal of Mr. Kemmis's proceedings, which have been already detailed in the course of his speech, continued]—It was not until the morning of the 4th of July that Kelly was induced—and then it was effected by what I may call a sort of stratagem—to swear the first information. If there was delay I do not want to fix the responsibility on any one. My object is simply to clear myself. My final directions were given on the 27th of June, but it was not until the 4th of July that any information of any kind could be procured. On the morning of that day a

warrant was issued against James Sadleir, and placed in the hands of the constabulary of the county where Mr. Sadleir was supposed to be, and a duplicate warrant was sent to this country. I myself was not idle in the mean time. Mr. Thomas Kemmis happened to come to London to see a son of his, who is at school here. I accidentally heard of it, and detained him here. By my directions he put himself into communication with the English shareholders. He spent ten days here engaged in the case, and he got it in such a position that, if James Sadleir were amenable to justice, he might be brought to trial at the next Tipperary Assizes; and he will be enabled to present a bill before the grand jury on Friday next, and to get it passed in order to lay the foundation for any future proceedings. He also put himself in communication with the detective police here, and a warrant was placed in their hands for the arrest of James Sadleir. Can any one say, therefore, for one moment that the justification which I have made, based entirely on documents, is not full, complete, and satisfactory? But there is more than this. The hon. Member for Mayo (Mr. G. H. Moore) asked me a few days ago, when James Sadleir ceased to be amenable to justice. I told him I did not know whether he had ceased to be amenable or not—at that time I was inclined to think he had not—but that if he had left the country it was not since the 17th or 18th of June. The reason why I said that was that his place of residence at Bray had been carefully watched by the police by my directions, and the report sent to me stated that he was still living at Quinn's hotel, at Bray, up to the 17th or 18th of June. Subsequent information, however, shows that this was a mistake—that his wife was living there, but he himself was not. I stated also, in answer to the same hon. Gentleman, that I could not exactly tell when the warrant was issued, but it was on or before the 4th of July. The reason of my uncertainty was that, having telegraphed to Dublin for a warrant to be sent over here, to be placed in the hands of the police, the answer which was returned did not state the day when the warrant had been issued. When Mr. Kemmis placed himself in communication with the police, they asked, "What are we to do with Mr. Sadleir if we find him?" "Arrest him." "But we have no warrant." Communication was then made to me, and I sent a tele-

graphic message to Dublin. The answer I got was "Information sworn, warrant issued, and sent down to Tipperary," but the date of issuing the warrant was not given. On the 9th of July I was not able to say whether James Sadleir had left the country or not, but very shortly after some information reached me on the subject. While in this House I received the following telegraphic message from the Crown Solicitor in Dublin—

"Private.—If reward is given for the apprehension of J. S., the party will come to Dublin and give information of his whereabouts. Answer by magnetic telegraph."

I showed that message to the right hon. Gentleman the Secretary of State for the Home Department and to the Secretary for Ireland, and with their approbation I sent the following answer—

"Go to Colonel Larcom at once. Offer such reward as he shall approve of. Be liberal."

This, as is often the case, produced no result; but a liberal reward was offered by the Government, who are now charged by a Judge from the bench with having endeavoured to screen this gentleman, lest his capture should lead to disclosures which would be painful. The question remains, is James Sadleir amenable or not? I shall conceal nothing from the House on this point. On Friday last I received a letter from a gentleman, whose name I am not at liberty to mention, which, in connection with another document, gives a clue to the quarter where information can be got. I shall only read one passage from it—

"James Sadleir had not the slightest idea that he was in danger until he read, on the 4th of June, the remarks made by the Master of the Rolls on the 3rd. He came in that morning with the paper in his pocket from Bray, where he was residing; and he said, 'I must now stand my ground or cut.'"

I said on Friday night that the inference which I drew was, not that James Sadleir had fled, but that if he had it was in consequence of the language of the Master of the Rolls, because I think there never was language used more calculated to alarm a criminal, and to show him what he must do. On my own responsibility I undertake to say that the statement made in the passage I have quoted can be proved. I have got a clue, not from the witness, and I undertake to say that before a Committee of this House a gentleman shall be produced who must prove this. James Sadleir was induced to remain in Ireland four

days after the 4th of June, and for what purpose? He remained at Kingstown up to the 8th of June, and his last act before he left was to swear an affidavit for the official manager and for the creditors in answer to the affidavits of the English shareholders charging him with fraud, and having sworn that affidavit he stepped on board the steamer, and I am not able to tell what has since become of him. What often happens in cases of this sort has happened to me. A gentleman, finding that I was unjustly assailed, and knowing that he had the means of showing it, like a man of honour, wrote this letter to me, which I received on Friday night last, just at the time when I was ineffectually urging the right hon. and learned Gentleman opposite to delay this discussion. I do not say that the Master of the Rolls intended James Sadleir to flee, but it is evident that it was his irregular and unwise observations which frightened him, and which showed him, for the first time, that he was in danger. This morning I received a letter from a firm in Lincoln's Inn, whom I do not know at all, but who, I am informed, are of the highest respectability.

MR. MALINS: I know the gentlemen, and I can vouch for their high character and standing in the profession.

MR. J. D. FITZGERALD: In that letter, which they can only have written to me from a sense of justice, they inform me that the affidavit of the English shareholders, imputing fraud, did not leave England until the 7th or 8th of June; and what legal evidence, they ask, could the Master of the Rolls for Ireland have before him on that point on the 3rd of June? I have now gone through the facts of this case. I have been obliged to trouble the House at some length, but, under the circumstances in which I was placed, I was entitled, I conceive, to some indulgence at their hands. I appeal to right hon. and hon. Gentlemen opposite, and to the House generally, with the utmost confidence. Can any man say, after the statement which I have made, that the slightest imputation rests upon my character? I cannot conceive it possible that the Government, which I for some purposes represent, can be charged with the base and dishonourable design of endeavouring to screen a criminal from justice. I can only pledge my honour, as a Gentleman and as a Member of this House, that I know of no circumstance which could induce the Government to screen James

The Attorney General for Ireland

Sadleir from justice; and ten thousand times would I rather vacate my office than act at the behest of any Government which could dictate such a course to me. These charges are not only unfounded, but perfectly untrue. I may state, solely for my own gratification, that although I sat on the same side of this House with Mr. James Sadleir and his brother John, they were persons with whom I had no connection, and there was on their part, as many hon. Members are aware, not the most friendly feeling towards myself. I have now done with this case; but there is one matter to which I feel bound briefly to advert. I do not refer to it as intending to make a charge against the Master of the Rolls. I regret that I should in any way have been brought into collision with that right hon. and learned Judge. If any incautious expression of mine has led to that I sincerely regret it, because it is not becoming that I, standing in my position, should be in collision with a Judge. But I put it to the House—did I, when assailed by the hon. Member for Mayo (Mr. G. H. Moore), and by the hon. and learned Gentleman opposite (Mr. Napier), upon the authority of the Master of the Rolls—did I exceed the bounds of the freedom of speech allowed in this House when I said that the Master of the Rolls' observations were irregular, and suggested another course which that learned Judge might consistently with his high character, his position, and his duty, have pursued? I apprehend that there is nothing in the constitution or in the rules of this House to prevent my commenting upon the conduct of a Judge if I should think fit. I believe that it is one of the privileges of the House to call in question the conduct of a Judge; but I did not do so. I used in a most temperate and moderate manner the freedom of speech which was due to my position as a Member of this House. I used expressions which ought not to have excited the animadversion of the Master of the Rolls, and which I must believe were in some way misrepresented to him. But, give me leave to express my regret, my sincere regret and my deep grief, that that learned Judge should have adopted the course which he has done. We are all interested in the maintenance of the dignity of Courts of Justice and of legal proceedings. For what are we all here? For what do Queen, Lords, and Commons, exist,—for what have we armies and navies, but to secure to us good laws,

well administered by good Judges? He who brings into contempt the administration of justice,—who in any way tries to cast obloquy upon it, inflicts a serious injury upon the State. I do assure the House that I from my soul lament that the Master of the Rolls should have been so forgetful of the dignity of his position, of what was due to himself, to the public, to the law which he has to administer, and to justice, which he represents, as to have adopted the unseemly course which he pursued on Friday last. Still more do I grieve and lament that the Bar of Ireland, whose privilege it was by their presence to restrain the interference of the Judge—no, I will not say the Bar of Ireland, but some members of it—that some members of that Bar, a Bar that I have so much respected, that I have always acted with and cherished, and the privileges of which I have, as far as I could, supported and advanced—that there were found some members of that Bar who polluted the sacred presence of justice by their ribald cheers. According to the statement made, “when the Master of the Rolls concluded, the audience testified their approbation by several rounds of applause.” Information has reached me that some members of the Bar joined in those cheers. I have heard it with grief, I have heard it with feelings which I cannot express, and I only hope that the statement may prove to be unfounded. I have now done, and I indeed owe an apology to the House at the same time that I thank it for the indulgence with which it has heard me, and for its kindness in allowing me to clear away any imputation which there might be upon my conduct. My great anxiety has ever been to gain the good opinion of this House. I hope I have obtained and shall ever retain that good opinion; but I have an apology to offer, and it is to express my sincere regret that any expression of mine—if it were indiscreet I am sorry for it—should have brought about this unseemly controversy, and should have exposed the House to the infliction of this long explanation.

MR. NAPIER: Sir, there is only one thing in regard to the statement of the right hon. and learned Gentleman the Attorney General for Ireland of which I have to complain, and that is, that having such an explanation of the whole course of his proceedings in this case, there should have been any attempt on his part to force upon me the responsibility and place me in the position of his accuser. I became con-

noted with the case while sitting here, and taking no part in the proceedings. I heard a question asked, and an answer given, and, according to my interpretation of that answer, I the next day communicated with the Master of the Rolls in Ireland, who is, as I have already stated, my constituent and friend. I believe that I understood the answer accurately. I sent it truly, and I at the same time referred the Master of the Rolls to the newspaper reports. I said that I wanted to ascertain the real facts, of which I then knew no more than the general public. On the following Tuesday I got an answer from him, stating that the facts and documents to which he had adverted were included in his judgment; and he also stated—

“It is new to me that it is any part of the duty of a Privy Councillor to inform the Government of facts notorious to all the world. Every person in Ireland was, I believe, aware of the frauds of the Tipperary Bank. The Attorney General and the Irish Government had equal opportunities of investigating the facts which I had, as every statement in my judgment is supported by some one or other of the affidavits, accounts, and documents referred to in my order, and filed or deposited in the Master's office, or in the hands of the official manager.”

On Wednesday, when I gave notice of my question, I was wholly unaware of any intended charge against the Attorney General. I myself never contemplated, I had no statement referring to any such charge. I gave my notice simply with regard to the question of the oath of a Privy Councillor; and it was not until Friday morning that I received the statement which has been referred to. I then had no authority to use it, except with respect to the question to the Attorney General for Ireland of which I had given notice. I think that had any Member of the Government asked me, early enough to give me time for consideration, to postpone that question, because it was mixed up with other matters, I should most likely have complied with the request; but the appeal was made to me just at the time that I was called upon by you, Mr. Speaker, and in the hurry of the House I had no alternative but to go on. Having no intention of accusing the Attorney General, having kept myself perfectly free from that part of the case, I put the question of which I had given notice, and I appeal to hon. Members whether in the statement with which I introduced it I made any charge whatever against the Attorney General for Ireland. On the contrary, I understood that I was blamed for not making such a charge. If

I had been asked to make it I should have replied that I was the most unfit person to do so, because it would probably be attributed to personal or party motives. I thought that I could put the question, keeping it separate from any charge, and I was much surprised when I saw that an attempt was made to force me into the position of an accuser. I declined to propose a Resolution, condemning the Attorney General, because, having held that office, I knew that it was his duty to state to the House the steps he took, the only question being whether those steps showed due diligence. I said last night that if he preferred an inquiry I would support it. He had the right to choose. He has made a statement, and I am bound to say with frankness that, having heard that statement, I have no charge to make against him. I can appeal to the right hon. and learned Gentleman whether, although his political opponent, I have ever, either out of doors or in this House, acted towards him except in a manner honourable to us both. [Mr. J. D. FITZGERALD: Hear, hear!] I would sit down at this moment, and content myself with what has been stated, if the imputations upon the Master of the Rolls had been entirely removed. But having undertaken to appear for him, and to take charge of his honour, character, and dignity before this House, I think that I should not be doing my duty to him if I did not ask the House to listen to what will be a brief, but I hope very satisfactory explanation. I do not intend to defend particular expressions which he may have used with regard to particular matters, and in which his zeal and love of justice may have caused him to forget himself, but I think that he has acted from an honest desire to get at the justice of the case, and of this I hope to satisfy the House. Sir, there is no man on the Irish Bench more zealous in the discharge of his duties, or who discharges them with greater ability—there is no man who is more desirous of dispensing justice in every case, than my right hon. and learned Friend the Master of the Rolls; and I think that, at all events, I shall be enabled to clear him of the imputations which have been cast upon him. It is manifest now but that for the Master of the Rolls these frauds never would have been completely unravelled. It is entirely owing to his diligence, assiduity, and searching scrutiny that they were brought to light. The investigation before the Master in Chancery was so imperfect that

Mr. Napier

it would have covered a charge of so serious a nature that the hon. and learned Member for Sheffield (Mr. Roebuck) is about to found upon it a Motion for the expulsion of the Member to whom it applies. For my own part, I deeply regret that that excellent and experienced officer, Mr. Kemmis, did not, on the 3rd of June, go to the Master of the Rolls, with whom he was well acquainted, and who would, I am confident, have given him every information which would have enabled him to follow up the case with effect. All the difficulties arose between the 3rd and the 20th of June. After the latter date the matter was diligently pursued. Had the information been obtained at the former period a warrant might have been issued, and probably at this moment James Sadleir would have been amenable to justice. Now, let hon. Members see the position of the Master of the Rolls. The case came before him, in the first instance, on the 3rd of March. It was not brought forward by a shareholder, but a motion was made on the part of the under-bailiff of James Sadleir to get the carriage of the proceedings under the Winding-up Act. The Master of the Rolls, having investigated the case, said that neither in his experience nor in the experience of any living being had such a gigantic fraud been perpetrated. From the statements before the Court it appeared that James Sadleir had concocted a balance-sheet, in which it was stated that the assets of the bank amounted to £612,000, knowing all the time that John Sadleir owed to the bank £258,000; and that he had transferred to the name of Austin Ferrall £50,000 of the supposed paid-up capital. The Master of the Rolls then referred to the case of certain fraudulent bankers in London, and said, "Nothing occurred in that case to be compared with the monstrous frauds in the present case." It is perfectly true that the Master of the Rolls did not, upon that occasion, intimate that there was any fraud which could be prosecuted as a crime; but what I understand him to have meant to say afterwards is, that if the documents which were in the possession of the official manager had been diligently and duly examined, the parties would have discovered from these documents, which were the only evidence, the means of carrying out a criminal prosecution. I understand from that, that if they had examined these documents they would have found the means of instituting a successful prosecution. When the case came before the Master of the Rolls it appeared

to him to have been imperfectly investigated in Master Murphy's office. He therefore collected together all the documents, and carefully examining them, found out this singular state of facts, that in 1855 James Sadleir had, in concert with his brother John, plotted and conspired by fraudulent devices to entrap the English shareholders, and that they had been guilty, at least, of the crime of conspiracy, which was afterwards established in the judgment that relieved the English shareholders from the liabilities of the bank. The plan by which they proceeded was by drawing up a report of the state of the bank at the end of the year 1854, which, from beginning to end, was one mass of falsehoods. James Sadleir having signed this report, they then fabricated a balance-sheet, which was kept in the hands of John Sadleir. By these arts they induced the English shareholders to purchase the unappropriated shares, which were represented as being old shares. They also allege that the bank had paid a dividend of 6 per cent on the paid-up capital, and backed up their wholesale falsehoods by a mass of forged names, forged certificates of transfer, fictitious entries, and fictitious registries. The case was, therefore, complete against James Sadleir, on the one side, for fabricating the report; and against John Sadleir, on the other, for fabricating the balance-sheet. They stated the paid-up capital at £100,000, when it was only £40,000, and the assets at double their real amount. Such was the gigantic system of fraud which came before my right hon. and learned Friend the Master of the Rolls; it engaged his closest attention for several days; it was the common talk of Dublin, and, indeed, of the whole country; and this learned Judge having, by his skill and assiduity, his zeal, his earnestness, and his intense love of justice, succeeded in bringing to light and in disentangling this complicated web of imposture and deception, might, in his natural indignation at the enormity and nefariousness of these transactions, have boiled over and severely animadverted on what he, undoubtedly, thought the remissness of the Executive in not taking speedier steps to bring the guilty parties to punishment. The Master of the Rolls saw that Master Murphy had been imposed upon by an imperfect investigation, and knowing the heartless way in which large numbers of unfortunate persons had been swindled and victimised, his surprise at so long a period elapsing before the clue he

had detected was followed up by the Crown prosecutors might, I conceive, be easily accounted for and excused. A Judge more free from political bias than the Master of the Rolls never sat on the bench; he is a pure, earnest, simple-minded man; and he naturally expected that some of those connected with the administration of the law in Dublin would have interposed in so heinous a case, the startling particulars of which were daily published to the world, and communicated the progress made in unravelling it to the Attorney General for Ireland long before the 6th of June. The Attorney General for Ireland admitted that, when the first application on the part of the Crown was made, on the 20th of June, to the Master of the Rolls, that learned Judge showed himself ready to afford every assistance in his power. As far as the evidence is concerned, what is the opinion of Mr. Gaussen? In a letter to the Crown Solicitor, dated June 11, he says—

“All the facts are set forth in the affidavits filed with the solicitor of the official manager, and the entries complained of as fraudulent are contained in the books lodged with me.”

And in another letter, dated the 13th of June, he adds—

“We send also the copy of one of another set of affidavits made by the appellants since the hearing; but we beg to suggest that the books of the bank, and documents which came to the hands of the official manager, furnish, we apprehend, stronger evidence than any affidavit which our clients could make on the subject.”

Looking, then, at the matter fairly, here is a Judge directing the whole powers of his mind to unravel these nefarious transactions. He delivers a judgment which must convince any lawyer that he has no superior in his ability to handle the law or to point out the mode in which criminal proceedings should be instituted; he feels that he, at least, has done his best to discharge an important public duty, and he sees no stir made by the officers of the Crown in a case which has startled and alarmed the country, and been the common talk of everybody. Seeing that he laid bare the whole of this mass of fraud, a little indulgence ought to be extended to him if, not knowing the circumstances which have been stated to the House to-night for the first time, he used expressions of some warmth. Hearing that in the Parliament of the United Kingdom he had been charged with having, either by his default as a Judge or by a failure in his duty as a Privy Councillor, been the

means of allowing a man to escape from the country who was amenable to justice, the Master of the Rolls in Ireland, having been the very person who first brought to the light of day the materials for the detection and prosecution of the offender, might well feel sore at so unjust and unlooked-for an accusation. I hope the House has now got rid of this painful personal matter. After the explanations given by the right hon. and learned Gentleman the Attorney General for Ireland, it would be uncandid and unfair in me to impute anything improper to him. Since the right hon. and learned Gentleman obtained the information to which he referred—viz., on the 6th of June—he appears to have exercised due diligence, and to have availed himself of professional assistance of the highest character in Ireland. [Mr. HORSMAN here made a remark which was inaudible in the gallery.] I hope the Chief Secretary for Ireland does not suppose that, in making this admission, I do so with any reserve, or any desire to keep behind any insinuation against the Attorney General for Ireland. The observations of the Master of the Rolls may have been elicited in consequence of communications which he received from me—I dare say they were. All I can say is, that I intended only to convey to him what I and several other Members of this House supposed, and still believe, to have been the statements made by the right hon. and learned Attorney General for Ireland. I have only further to add, that I trust the House, while on the one hand it may conceive that expressions were used by the Master of the Rolls, which after the explanations given to-night are to be regretted, will yet believe that this able, impartial, and indefatigable Judge has rendered invaluable service to the public by his detection and exposure of these wholesale frauds, and has been actuated by no other motive than an earnest anxiety to see justice done.

Subject dropped.

House, at its rising, to adjourn till *Thursday*.

WINE DUTIES.

MR. OLIVEIRA: * At the commencement of each Session of Parliament, since I have had the honour of a seat in this House, I have given notice of a Motion for a reduction of the duty charged upon foreign and colonial wines; and upon two occasions I have been favoured with the indulgence of the House in being permitted

Mr. Napier

to lay before it, at considerable length, the arguments and evidence in support of my views. I will now, if the House will grant me its further indulgence, endeavour to compress into as short a compass as the magnitude of the subject will admit of, the various important considerations which are involved in the matter; and I will, as upon former occasions, divide the subject into three distinct parts—namely, revenue, moral and social points, and international advantages. Without going into the origin of this particular duty, which is of considerable antiquity, and which has been varied in amount at different times and for various objects—sometimes for regal, sometimes for fiscal, and sometimes for interest to promote commercial intercourse with particular countries—I will confine myself to the measures that have been taken in reference to the matter in recent times. In consequence of the progress which free trade measures had made in public opinion as well as amongst most parties in this House, the subject of the wine duties attracted considerable attention in the year 1852, and a Committee of the House sat for a period of seven weeks, collecting information relating to the various interests which would be affected by an alteration; and I think I may confidently refer to that evidence as proving that the present high duty prevents an increased consumption—that a lower duty would produce a larger revenue—that the use of wines would tend to diminish the excessive drunkenness and consequent immorality which prevail in this country—and that a diminished duty would tend to enlarge and extend the commercial relations with foreign countries, and to strengthen and consolidate the mutual, amicable, and material interests which follow in the train of the ties which would thus be created. I shall not trouble the House by quoting from the two Blue-books particular evidence for each of the heads referred to, though I may say that witnesses in every way qualified to give weight to their opinions, clearly established the views I have stated. Convinced that it was only necessary to bring the question under the notice of this House, to insure it a fair consideration, I ventured to do so early in the Session of 1853, when the right hon. Gentleman the Member for the University of Oxford filled with such distinguished ability the office of Chancellor of the Exchequer. Referring to the reply given to me upon that occasion by that right hon. Gentleman, it appears to me that, possessing a most complete know-

ledge of everything connected with the subject, he was disposed to view a reduction with impartiality, if not favour; but being engaged in such extended and beneficial reductions in various other branches of the national revenue, affecting the comfort and welfare of the people, he did not feel justified in effecting any alteration in this particular tax; and I did not hesitate to withdraw the Motion, to submit it at a more opportune period. Since the right hon. Gentleman has been out of office, if I mistake not, from an expression he used last Session, when he designated the "Wine duties the scandal of our tariff, by which nine-tenths of the produce of Europe are excluded from our markets," he entertains an opinion adverse to the present rate of duty. Early in the Session of 1854, I again brought the subject under the notice of this House, having in the previous autumn accumulated a vast amount of information in the wine countries of Europe, and having conferred with several distinguished authorities in France, Spain, and Portugal, by which my convictions in favour of a reduction, were strengthened and confirmed. It happened, unfortunately, that at the period when I was engaged in presenting the question for discussion in this House, there were strong indications of that war with Russia which soon afterwards broke out; and, therefore, considerations affecting the public service induced me to avoid any debate, which, at that time, might have been a source of embarrassment to Her Majesty's Government. I, therefore, simply placed on record a statement of the material facts. During last Session the continuance of the war prevented my giving any impulse to the subject, though I retained a notice on the Journals of this House, ready at any moment to bring it forward if a termination of the war should render it practicable; and I have the authority of the present Chancellor of the Exchequer, as well as the noble Lord at the head of Her Majesty's Government, intimated last Session, if I am not mistaken, in admitting that, if peace should be restored, this question would be a fit and proper one for discussion in the House of Commons; and I trust, from what transpired at a recent interview I had, on introducing to the noble Lord a deputation of more than ordinary weight and influence, representing great interests in the country, that Her Majesty's Government will be disposed to give to the question a candid and impartial

reception. As to revenue, it is a remarkable fact, that whilst in all other consumable articles a steady increase has taken place, especially where a diminution of duty has occurred, the wine duties show little advance, notwithstanding the increase in population and wealth, as also the desire of most classes to indulge in the use of wine. This, if compared with the steady progress in the consumption of spirits, shows a remarkable and, I think, unfortunate result. By a Return moved for by the hon. Member for Kildare county (Mr. Cogan), it appears that:—

	Population being	Gallons of spirits consumed.
In 1802	15,506,794	15,596,370
" 1811	17,630,185	17,380,580
" 1825	20,853,151	22,433,615
" 1831	24,046,837	26,738,203
" 1846	26,715,920	28,352,027
" 1851	27,452,262	28,760,224

Taking the consumption of wines during the same interval, I find, by a Return I obtained in the Session of 1854, the following results:—

	Population.	Gallons of wine consumed.
In 1802	15,506,794	7,113,416
" 1811	17,630,185	5,629,722
" 1825	20,853,151	8,009,542
" 1831	24,046,837	6,212,264
" 1846	26,715,920	6,740,316
" 1853	27,452,262	6,813,830

So that whilst the consumption of spirits has been, as nearly as possible in the ratio of one gallon per inhabitant per annum, that of wine, which at the commencement of the century was at the rate of about half a gallon per inhabitant per annum, was in 1853, about a quarter of a gallon per inhabitant per annum, being a steady and progressive decrease in consumption with an increase of population and wealth. To show, however, how susceptible of increase the revenue has proved itself when decreased in amount, I will instance two remarkable proofs:—Mr. Pitt, in the year 1787, reduced the duty on French wines from 8s. per gallon to 4s., and Portugal and other wines from 4s. 6d. to 2s. 7d. per gallon. The result was—

	Gallons.
Consumption in 1785	4,064,864
Consumption in 1790	6,601,038
Consumption in 1792	7,851,707

Being nearly doubled in five years. Mr. Huskisson lowered the rates in 1825 from 13s. 8d. on French wines to 7s. 2d., and on Portuguese and Spanish from 9s. 1d. to 4s. 10d. The result was—

Average consumption for five years before reduction	4,781,106
Average consumption for five years after reduction	6,741,855

As a branch of revenue, then, it would appear that the wine duties have reached their maximum, and that at the present rate it is vain to look for any increase. I will now, with the permission of the House, adduce some high authorities in favour of my views. Mr. Pitt, in a speech upon the treaty with France, 12th February, 1787, said—

“We had agreed by this treaty to take from France, on small duties, the luxuries of her soil, which, however, the refinement of ourselves had converted into necessities. The wines of France were already so much in the possession of our markets that with all the high duties paid by us they found their way to our tables. Was it then a serious evil to admit those luxuries on easier terms? The admission of them would not supplant the wines of Portugal nor of Spain, but would supplant only an useless and pernicious manufacture in this country. He stated the enormous increase of the import of French wines lately, and instanced the months of July and August, the two most unlikely months in the year to show the increase of this trade. The Committee would not then see any great evil in admitting this article on easier terms.”

Blackstone (book 1, chap. 8), in speaking of the duties belonging to the Crown, has the following passages, which I think not inappropriate:—

“There is also another very ancient hereditary duty belonging to the Crown, called the prisage, or butlerage of wines, which is considerably older than the customs, being taken notice of in the great roll of the Exchequer, 8 Richard I., still extant. Prisage was a right of taking two tuns of wine from every ship (English or foreign) importing into England twenty tuns or more, one before and one behind the mast; which, by charter of Edward I., was exchanged into a duty of 2s. for every tun imported by merchant strangers, and called butlerage, because paid to the King's butler.”

He goes on to say—

“But this inconvenience attends it on the other hand, that these imposts, if too heavy, are a check and cramp upon trade, and especially if the com-

modity bears little or no proportion to the quantity of the duty imposed.”

He further adds—

“There is also another ill-consequence attending high imposts on merchandise, not frequently considered, but indisputably certain, that the earlier any tax is laid on a commodity the heavier it falls upon the consumer in the end, for every trader through whose hands it passes must have a profit, not only upon the raw material and his own labour and time in preparing it, but also upon the very tax itself which he advances to the Government: otherwise he loses the use and interest of the money which he so advances.”

Mr. M'Culloch, in his work on Taxation (vol. 2, p. 172), likewise says, speaking of the wine duties—

“Thus from 1821 to 1824, both inclusive, when the rate of duty on French wines was 13s. 9d. per imperial gallon, the consumption amounted to 171,838 gallons a year at an average. In 1825 the duty was reduced to 7s. 3d. per gallon; and during the subsequent four years the average annual consumption was 360,450 gallons! In these respects, indeed, there is no difference in the practical influence of oppressive duties, whether they be laid on the articles used by the higher, the middle, or the lower classes. They are uniformly pernicious and unproductive, whereas, moderate duties are as uniformly productive, in-ocuous, if not advantageous.”

Upon the last occasion that I brought this question before the House (14th February, 1854), I quoted Mr. Porter, Mr. Tuke, Mr. Poole, Mr. Short, Mr. Shawe, and other practical judges, whose opinions given in evidence before the Wine Committee were all favourable to a reduction of duty, as likely to increase consumption, and produce a larger amount of revenue. Indeed, the whole course of proceeding adopted by successive administrations, since the time of Sir Robert Peel, has been in favour of the policy of diminishing the import duties upon articles of foreign growth, and the result has been, as it was natural, a very largely increased demand for those articles. I will, with the permission of the House, illustrate this by reference to the articles of cocoa, sugar, tea, and coffee—

Quantities retained for Home Consumption in the United Kingdom in each year from 1852 to 1855.

Years.	Cocoa.	Tea.	Sugar (raw).	Coffee.	Wines.
	lbs.	lbs.	cwts.	lbs.	gallons.
1852	3,328,627	54,713,034	6,898,867	34,978,432	6,346,081
1853	3,997,198	58,834,087	7,272,833	36,983,122	6,813,830
1854	4,453,529	61,953,041	8,028,758	37,350,924	6,776,066
1855	4,384,748	63,430,693	7,254,222	35,704,470	6,295,487

Statistical Department, Board of Trade, April 10, 1856.

A. W. FORBLANQUE.

Mr. Oliveira

So that, notwithstanding the privations which must have ensued to some extent by the prosecution of the war, in all the articles of primary necessity, little or no effect has been produced, consumption having progressed; but with reference to wine, which more properly belongs to the wealthy classes of society, we see a stagnation. It is very well known that there are, in various parts of Great Britain, extensive establishments for the fabrication of British wines, which no doubt form a large part of the consumption of the lower-priced wines, but which has the effect of preventing any increase of duty by augmented importation. The adulteration of wines is notorious. Without troubling the House with many extracts from the Blue-book, I may refer to the evidence given by Mr. Bastick before the Adulteration Committee, who gave the recipe for making port wine—

“Cider forty-five gallons, brandy six gallons, good port eight gallons, ripe sloes two gallons; stew them in two gallons of water, press off the liquor, and add to the rest, if the colour is not strong enough, tincture of red sanders. In a few days this wine may be bottled; add to each bottle a teaspoonful of catechu, and mix it well; it will very soon produce a fine crusty appearance. The bottles being packed on their sides as usual, soak the ends of the corks in a strong decoction of Brazil wood with alum, which will, with the crust, give it the appearance of age.”

I will also refer to the following passage from the *Quarterly Review* of March 1855—

“The great mass of ports at a cheap and moderate price are made up, it is well known, of several kinds, and doctored according to price. There is one compound, however, which particularly claims our attention, ‘Publican’s port.’ We are all of us familiar with the announcement to be seen in the windows of such tradesmen, ‘Fine old crusted port, 2s. 9d. per bottle,’ and the extraordinary thing is, that upon opening the bottle we often find that it is crusted, and that the cork is deeply stained. How can they afford to sell an article having the appearance of such quality and age at so low a price? The answer is simple. Wine, crust, and stained cork are all fabricated. There is a manufactory in London where, by a chemical process, they get up beeswing to perfection, and deposit it in the bottles, so as exactly to imitate the natural crust. Here corks are also stained to assume any age that is required. The wine itself contains a very little inferior port, the rest being composed of cheap French red wine-brandy, and logwood as colouring matter.”

Another species of adulteration, and equally pernicious, is that which is effected in the dock, under the name of “vatting,” by which process different wines are mixed

together for the purposes of sale. Many exposures of those practices have taken place recently. Since the introduction of the system of Free Trade by Sir Robert Peel, so ably followed by the right hon. Gentleman the Member for the University of Oxford, I think we have abundant proofs of the wisdom of the system of reducing duties with a view to obtaining increased revenue—and the buoyancy of the national income, even during the prosecution of the war, shows the advantage of those measures. I wish, in respect to the article of wine, the same principle to be applied; and before I conclude I will submit to the House a proposal by which, I think, this reduction might be brought about, by a plan simple in its operation, calculated to meet the views of the trade, and to disturb as little as possible the amount of revenue received from that source. The second branch of this inquiry is a very important one. I mean the moral, sanitary, and social improvement, that may be expected from a more general use of wine; and although I have, upon former occasions, almost exhausted this portion of the subject by numerous practical illustrations, I will ask the House to permit me to urge this point on its earnest consideration by a few remarks from trustworthy sources. Adam Smith has the following remarkable passage in the second volume of his “Wealth of Nations,” book iv., chap. 3—

“It deserves to be remarked, too, that the cheapness of wine seems to be a cause not of drunkenness, but of sobriety. The inhabitants of the wine countries are, in general, the soberest people in Europe. Witness the Spaniards, the Italians, and the inhabitants of the southern provinces of France. People seldom are guilty of excess in what is their daily fare. Nobody affects the character of liberality and good fellowship by being profuse of a liquor which is as cheap as small beer. On the contrary, in the countries which, either from excessive heat or cold, produce no grapes, and where wine, consequently, is dear and a rarity, drunkenness is a common vice; as among the northern nations, and all those who live between the tropics, the regions for example on the coast of Guinea. When a French regiment comes from some of the northern provinces of France, where wine is somewhat dear, to be quartered in the south, where it is very cheap, the soldiers, I have frequently heard it observed, are at first debauched by the cheapness and novelty of wine; but after a few months’ residence, the greater part of them become as sober as the rest of the inhabitants. Were the duties upon foreign wines, and the excise upon malt and ale to be taken away all at once, it might in the same manner, occasion in Great Britain a pretty general and temporary drunkenness among the middling and inferior ranks of the people—which

would probably be soon followed by a permanent and almost universal sobriety. The restraints upon the wine trade in Great Britain, besides, do not so much seem calculated to hinder the people from going, if I may so say, to the ale-house, as from going where they can buy the best and cheapest liquor. The sneaking arts of underling tradesmen are thus erected into political maxims for the conduct of a great empire; for it is the most underling tradesmen only who make it a rule to employ chiefly their own customers."

I received the following important letter from a wine merchant of Bristol, named Wall, last year. He says—

"From my long experience as a wine merchant, the reduction of duties on all wines will be not only a popular measure, but will be attended with good moral results. My views are these—that the Chancellor might be inclined to get rid of the Motion upon the ground he cannot spare the revenue; that has been the cry of every Chancellor of the Exchequer, and when they have really reduced a duty they have not had a deficiency of revenue, but an increase. Well, if he will not reduce the duty at once, let him take off 1s. 6d. per gallon this year, and 1s. per gallon for the three following years, to commence 5th April next; if he cannot afford to give back so much revenue at once, let him, if he reduce the duty to 1s. pay back a fourth part every year for four years. Even this measure would be received gratefully, and whatever resolution may be come to, I hope, like sugar, the wine trade will know first and last their position. The continued expectation of duties being taken off, seriously interferes with the sale of wines, and even now parties will not pay duties till it is decided."

That is a fair specimen of numerous letters which I receive from the trade upon this subject. The following is an extract from Mr. Ingham, the worthy presiding magistrate at one of the metropolitan police offices:—

"My experience in the police Courts has convinced me, that a very large proportion of the crime and misery which exist in England arises directly or indirectly from spirit drinking. I have no doubt that a plentiful supply of cheap wine would be found conducive to temperance. During many recent visits to Paris, and other parts of France, I do not recollect ever having seen a drunken man. If my position, as a paid magistrate, did not preclude my taking part in public agitation, I should be most happy to join your committee. I beg to assure you that I most heartily wish you success."

A very intelligent and influential member of the wine trade (Mr. Thomas George Shaw) writes as follows:—

"In Scotland there is an association for the suppression of drunkenness, consisting of some of the ablest, as well as most energetic clergymen and laymen, who have been doing everything in their power for some years to put a stop to this evil, which in many places is destroying not only the mental, but the physical capacities of our northern brethren; but their total want of success has at length led the greater part of the

Mr. Oliveira

society to the conviction that there must be some other substitute than tea and coffee, &c., and at this moment it is under deliberation whether they will not urge upon Government a reduction of the duty on wine, in order that it may again become, as it formerly was, the general beverage of the country, and knowing that where wine is accessible to all, drunkenness is exceedingly rare."

I have numerous communications from chambers of commerce of many of the large commercial towns of the United Kingdom, as well as from mayors and magistrates. Mr. Donald Nicoll says—

"I have reason to believe, by my experience as a licensing magistrate, that the introduction of foreign wines, at prices adapted for the million, would be a great boon to the cause of morality in this division, and to the public generally."

The evidence taken before the Public-houses Committee of the two last Sessions teems with proofs of the demoralising tendency of spirit-drinking, and the evils of the present licensing system. Mr. Robertson Gladstone said—

"I believe some people entertain the idea that you have no right to select the licensed victuallers' business for the imposition of a tax, and trade should be free. We are now obliged to maintain a police force in Liverpool of something like 900 strong; and we are at this moment paying from the borough funds something like £100,000 for the erection of a new gaol; and I contend that we should not have to incur so large an expense on account of police force, nor should we at this moment have been put to the necessity of erecting a new gaol, if it were not for the existence of the licensed public-houses and beer-houses."

In illustration of this, the hon. Member for South Leicestershire (Mr. Packe) said last year in this House—

"He happened to know that in the parish of Marylebone, more persons were in attendance at the public-houses on the Sabbath-day, than in the whole of the places of worship throughout the parish."

And I would further intrude upon the House by reading a short extract from a petition signed by from 40,000 to 50,000 wives and daughters of the labouring classes, and presented to the Queen by the Earl of Harrowby, on the 9th of June last:—

"We believe the benefit of our large and numerous class was intended when the present beer-laws were made. But now, after many years' experience, we find, to our disappointment and sorrow, they work only for our injury and ruin, in every imaginable way, by reason of the very great facilities they offer, and the too strong temptations they hold out, to our husbands and sons to carry the wages, they hardly and honestly earn for the support of their families, to the gin and beer-shops; and that without one corresponding advantage, but rather, in how many instances with-

out number, leading them step by step into crime, and ungodliness (which our own sex does not escape), entailing shame, poverty, and disgrace, upon us, upon themselves punishment and imprisonment, and sometimes an ignominious violent death, and consequently increasing largely taxation upon the sober, and expense of the most objectionable sort upon the whole nation."

I will only trouble the House with one further quotation from a letter addressed to me by the Rev. Mr. Lewis, incumbent of Trinity Church, Ripon, who says—

"It is problematical how far the temperance societies would assist you, but many who are extremely anxious to check intemperance, though they cannot go the same length with teetotal advocates, would both sign petitions, and give money and labour to the cause. I write feelingly on the subject, daily seeing the ruinous effects of intemperance, principally through the use of ardent spirits, and finding the dram-shops do more to ruin, than all my fellow-labourers and myself in this locality can do to improve. Only this year, I have had to bury two brothers about 32 or 33, absolutely poisoned by ardent spirits."

Looking at the deplorable results which are so clearly traceable to the abuse of strong beer and ardent spirits, taken together with the very faulty condition of the law with reference to the licensing system, I must say that I look forward to a considerable advantage to be derived from the measure which I propose; for it is impossible not to anticipate, from the use of wine, the same effect which is seen in other countries—that of an invigorating healthy stimulus, instead of the deadening poison produced by spirits. I trust, therefore, that upon this branch of the inquiry I have adduced sufficient arguments for a change of system. I will now proceed to investigate the third branch of this question—one involving our intercourse with foreign nations, and those increased facilities for advancing the principles of free trade, which, it seems to me, will be promoted by a large reduction of the duty upon wines. There are several countries in Europe which, by their climate and soil, are peculiarly adapted to the cultivation of the grape, and have been so throughout all history. The capabilities of many of these countries are boundless. Abundant evidence was produced before the Wine Committee of 1852, to show that in France, in Spain, and in Portugal, the cultivation of the vine would be extended indefinitely if markets existed for the produce. I adduced, in the Session of 1854, testimony to the same effect from various parts of France which I visited, and where I was informed that great anxiety was felt

in those regions for the success of my Motion; that much ground, at present devoted to wheat, Indian corn and other grain, would be planted with vine, if the duty upon wine were reduced in England. In the classic land of Italy there are many wines hardly known out of their respective districts, but which would speedily find their way to our markets, and those countries would, in turn, take from us many of those manufactured articles which they are unable to fabricate. The Italian wines are little known to us, except to those who have visited the various countries of Italy; but their number is infinite, and justifies the memorable lines of the ancient poet—

"Sed neque quam multæ species nec nomina
quæsit

Est nummus, neque enim nummus comprehen-
dus refert.

Quam qui sacri velit Lybici, velut æquoris idem
Discere: quam multæ Zephyro turbentur arenæ,
Aut ubi navigiis violentior incidit Eurus
Nosse quot Ionice veniant ad littora fluctus."

Germany produces many wines that would be imported into England at a low duty and become favourites, and the various states of that part of the Continent, who are now our customers to the extent of £7,000,000 sterling annually, would no doubt increase their commercial relations a considerable degree. In the Session of 1854 I gave the House some statistics with reference to the produce of the various wine countries of Europe, from the most reliable sources that I could apply to. I have reason to believe that those figures were correct; at all events I took great pains to obtain accurate information, and in all cases I published the names of my informants. I appeal to those statistics as constituting the best proof that there are to be obtained abundant supplies, if our consumption were stimulated by low duty. I am aware that many members of the wine trade do not hesitate to give it as their opinion that from the late deficient vintages, and the large consumption in the countries of their growth, added to the demand in Australia, that Great Britain will not be able to obtain more than the present supply for her population. I am quite of a contrary opinion. I will, with the permission of the House, give the opinion of one of the most experienced members of the trade—Mr. Thomas George Shaw, who says—

"As to the doubts and fears felt or professed that we could not procure the additional supply of

about 30,000,000 gallons, they are too absurd to lose time in refuting; and I even go the length of stating my conviction that a shilling rate, although probably producing a slight rise for some months, would cause such a competition in the wine countries, and the introduction of so many excellent kinds hitherto unknown to us, that the general high standard of prices here would soon be assimilated to that of every other country. I shall only add, that the whole system connected with wine, spirits, licensing, and public-houses, is disgraceful to a country calling itself civilised."—Mr. Shaw's letter to *The Times*, Nov. 26, 1853.

Messrs. D. and G. Brymuer, of Greenock, amongst many of a similar character, say as follows—

"In consequence of the late reductions in the French tariff, a line of communication between Clyde and some of the French ports will probably be established by us immediately, and as the wines of France form a large part of her exports, it is, of course, highly important to the shipping interest of this country to see these duties swept away, or greatly modified, as they entirely prohibit the great bulk of her wine from coming into consumption here. The salutary effects upon the morals and health of all classes of the change you propose would be incalculable."

All the information which I have obtained from the wine countries goes to show that a reduced duty would lead to greater cultivation of the vine, and a relaxation of the duty upon English articles. Looking to the union which happily exists between Great Britain and France, and the brilliant feats of arms that have been performed by the armies and navies of those gallant nations during the war, it seems to me that sound policy, as well as the courtesy due to our neighbours, points this out as a concession that it would be graceful and proper to make to her. France has already given us an example worthy of imitation. The Emperor has shown a strong disposition to relax the high duties paid upon English goods, as well as to favour English shipping. Several decrees directed to these objects were issued last year; and it is particularly worthy of notice that on it appearing that the price of wine would rise in consequence of an apprehended deficient vintage, he at once ordered, by imperial decree, that all foreign wines should be admitted at the nominal duty of 25 centimes per hectolitre, which had before paid 15 francs when imported by land, and 35 francs when imported by sea, per hectolitre. The reduction of duty upon the same ground, that of deficient supply, must, I apprehend, be equally applicable with us; since it must be admitted to be a suicidal policy to mulct the consumer both with high duty and increased cost from de-

Mr. Oliveira

cient produce. In fact, if only as a temporary measure on the ground of scarcity, the principle recommends itself, and is analogous to the recommendation of the right hon. Gentleman the Member for the University of Oxford, upon the subject of malt—when he said, in 1853, a scarcity being anticipated—

"Parliament had been invited to do that which, in cases of scarcity, it generally did, and to remit for a time a portion of the duty."—Ohan. of Ex., 3 Aug. 1853.

In a recent communication from a correspondent in Spain to the leading journal in this country is the following passage—

"Wine is so abundant in many parts of Spain (Arragon, among others), that it does not pay the grower. It is common in some of the wine districts to send two casks, and get one filled, the other remaining in payment. When the vintage is particularly good in quality, it is not unusual for the inferior liquor of a former one to be spilt upon the soil to make room for the better sort. In the time of the Carlist war, I remember often seeing the soldiers buying whole buckets full of wine for a few halfpence, and much of the produce of the Spanish vineyards is of excellent quality. The Valdepinas, for instance, when genuine, and stored in casks instead of the filthy pigskins that contaminate it with tan, is excellent drinking, and partakes of the qualities of both Burgundy and Port. Had Spain good roads, or, better still for the transport of merchandise, extensive canals, there is no valid reason for her not becoming a formidable rival to France and Germany in all the wine-purchasing countries of the world."

The resources of Spain, in respect to production, cannot be overrated. I visited Cadiz last year, and whilst I stayed there I made excursions to Xeres, Port St. Mary's, and the other localities where the great supplies of what we term sherry wines are grown and made; and I felt assured, from all the information I obtained from the leading proprietors, that their stocks are large, and the increased produce would be very great. These wines are likely to be greatly consumed in England, as they have body and flavour without acidity. The following is an extract from a letter from Mr. James Baker, H.B.M. Consul at Barcelona—

"The subject appears to me to be of paramount interest for Catalonia, where very excellent and by no means dear table wines are produced in a sufficient quantity to allow of considerable exportation; and, though I am unable to speak with a full knowledge of the subject, I cannot but look forward with very great interest to a development of this remunerating trade with England."

[Enclosure to Letter.]

"The fittest wines of Catalonia, for English consumers, are the Priorato dry wine, which would cost at Tarragona, placed on board, sixty

hard dollars the Catalan pipe; and the same class of wine sweetened, to imitate Oporto, at eighty dollars the Portuguese pipe."

Many specimens of wine were presented at the recent Agricultural Exhibition held in Paris. From Catalonia alone no less than 103 different kinds are reported to be produced, varying in price from 75 centimes the bottle (about 7^d.) French Exhibitors figure in the official catalogue to the number of 296 specimens. Mr. Louis Cazalas Allut, from the Herault, exhibited no less than 150 varieties, of the vintage of 1847, at 15 francs the hectolitre (about 1s. 3^d. per bottle)—p. 277 of the catalogue; and many of the French wines are marked at lower prices. From Sardinia there are two specimens; from Switzerland, nineteen; and from Algeria, thirty-six. And here permit me to correct an erroneous impression entertained by many persons, and lately given expression to by the noble Lord at the head of Her Majesty's Government, namely, that the duty bears a ratio of 25 per cent on the value of the wine. Now, in the wine above referred to, the percentage of duty on value is nearly 300 per cent; and the same may be said with respect to many of the ordinary wines of France, Spain, and Portugal. If, by the reduction of this duty, a general competition should be brought about, we may expect the production of wine from many other countries whose climate is suitable to its cultivation. Referring to that quarter of the globe in which such intense interest is at the present time centred, I will give a short extract from Captain Spence's book upon Turkey, Russia, the Black Sea, and Circassia. The author says—

"Yalta, entirely the creation of the Prince Worozoff, is destined to be, at no great distance of time, a highly commercial and prosperous city. The harbour is safe, and all that the mariner could desire, and nothing can exceed the beauty and fertility of the surrounding country; for being protected from the scorching winds of the steppe, and the cold blasts of the north, all the productions of a more southern clime here attain the highest perfection, and the wines produced are already so much prized as to find a place at the Emperor's table."

and Mr. Anatole Demidoff, in his *Travels in Southern Russia and the Crimea*, vol. ii., p. 84, describing Castropolo, says—

"An extensive vineyard, planted in 1839, and stocked with the choicest species of vine, selected with care, receives the ardent rays of a sun worthy of tinting the mellow grape of Spain. To say the truth the wine does not yet correspond to the quality of the vine and the beauty of the grape, but it is to be hoped that such fine vintages will not

be lost for the want of good wine-makers to take advantage of them."

By recent accounts it would appear that the United States already produce considerable quantities of wine. In Putnam's *American Magazine*, published in New York, November, 1854, I find the following passages—

"The earliest discoverers of America, the Northmen, landed at the island where now Newport stands, and christened the New World, Vineland. I am not surprised that the Northmen should have called this Vineland, says an old gentleman of our acquaintance who was born and bred at Newport. I can remember, when a boy, seeing the wild grapes growing all over the banks down to the water's edge."

Sir John Hawkins, who was knighted by Elizabeth for his services in the action with the Armada, still better known as the Englishman who introduced the Slave Trade, speaks of drinking wine from American grapes in Florida in the year 1564, memorable as the birth-year of Shakespeare.

"Landonier says, writing the history of his voyage to Florida in 1562—that the trees were environed about with vines bearing grapes, so that the number would suffice to make the place habitable. Master Ralf Sone, in 1585, commends the grapes of Virginia, grapes of such greatness, yet wilde, as France, Spain, nor Italy have no greater. Vineyards were established in Virginia as early as 1620. Beauchamp Plantagenet in 1648 commends the wine of Delaware (Uvedale) for its intoxicating qualities. A second draught, he quaintly says, four months old, will foxe (intoxicate) a reasonable pate. William Penn, in 1688, and Andrew Dore, in 1685, attempted to establish vineyards near Philadelphia; Kaskaskia on the Mississippi, still earlier, had its vineyards planted by the Jesuits. Fort du Quesne, now Pittsburg, produced its vines and wines under the French, prior to the year 1758. Volney, who visited America in the year 1796, speaks of drinking an American wine at Gallipolis; Ohio. Du-four, in 1796, speaks of a Frenchman at Marietta, on the Ohio, who was making several barrels a year out of the wild grapes, known by the name of sand-grapes. I drank some of the wine when about four months old, and found it like the wine produced in the vicinity of Paris, in France, if not better. In the beginning of the present century the vineyards at Spring Mill, near Philadelphia, and the Swiss settlement at Vevay (Indiana), in 1806, were established. At Spring Mill, a variety of foreign grapes were tried, and abandoned; but a native vine, the Schylkill, an abundant bearer, succeeded well as a wine-grape. This, under the name of Cape grape, was transplanted to Vevay (Indiana), where it flourished many years. It produces a coarse red wine, of tolerable quality, only not to compare with the wine of the Catawba and Isabella. These two vines hereafter may form the great arterial branches through which the future prosperity of the Northern States shall flow, California and Texas."

The Cincinnati Chamber of Commerce, in a recent report on the business of that city, remarks as follows—

"Another business, which has grown up almost entirely since 1850, is making of wine, and which promises to equal in amount that of the finest provinces of France. By comparing the statistics of the Horticultural Society with the fact that numerous vineyards have been set out in the last year or two, we may confidently state that there are not less than 2,000 acres of Catawba vines in cultivation in the vicinity of Cincinnati, of which 1,000 acres are in full bearing. By the average production of the last few years, this area of vines will yield 700,000 gallons, and in a very short time it must be greatly increased. Already dry and sparkling wines and brandy, commanding the highest prices, are made here."

Mr. V. Longworth, the famous wine-grower of Cincinnati, has just published an article, in which he says—

"Ours is the region for grape culture and the manufacturing of wine. The wine countries of Europe have no native grapes. Our hills and valleys are covered with vines producing hundreds of varieties of grapes. If our temperance men can be induced to respect the doctrine of the Bible, and not interfere with the culture of pure wine—not many years will elapse till we can not only supply the United States with wine, but include all Europe."

I have a letter from Mr. Frederick Cozens of New York, in which that gentleman says—

"The still Catawba wine will compare favourably with the best Rudesheimer and Hookheimer, which it resembles. The sparkling Catawba has a flavour peculiar to itself, richer, fuller to the taste, and more grapy than any champagne. The sparkling Isabella is still richer. It always struck me that these wines were peculiarly suited to the English taste."

There are two domestic interests of considerable amount mixed up with this question; and I should be sorry for it to be thought that I could pass them over in silence. I mean the British wine trade, and the drawback upon duty-paid stock to foreign importers. The British wine trade has grown up in a comparatively short period, in consequence of the prohibitory duty upon foreign wines, and is at the present time a very thriving and increasing branch of commerce. The introduction of British wines throughout the kingdom has led to a very large consumption of those wines; and it is fair to assume that, to a certain extent, it has prevented the consumption of foreign wines; but I believe, also, that it is very often substituted for the foreign article; at all events, by being mixed with foreign wines in the hands of unscrupulous innkeepers and retail

Mr. Olicira

wine dealers—and this is, in my opinion, one reason why the duty upon foreign wines does not increase. Now, if my apprehension be correct, the Revenue is suffering from this process of mixing, and is likely to continue to do so. The British wine-makers view my proposed reduction of duty with great and natural apprehension, as likely to interfere with their business; and think that if the duty upon foreign wines be reduced, that they should have a corresponding favour shown them, by a reduction of duty upon spirits used in the manufacture of their article, which will permit them to compete with the foreigner as regards the cost. It cannot be urged that the British trade has any very strong claim for such an extension of protection; and I leave this matter entirely with the Chancellor of the Exchequer. The drawback question stands upon somewhat different grounds, the merchants alleging that there is a distinct pledge given by the Government under Treasury order, to refund the duties paid upon stock in the event of a reduction taking place. I have upon former occasions referred to this question, and I am aware that it presents considerable difficulty, as well from the large amount that would have to be repaid, as from the facility which it presents for the practice of fraud. I trust that the proposition with which I shall conclude my address will, amongst other advantages, effectually silence the opposition of the British wine merchant, and the importer who has paid duty upon stock. If, as I think, it has been conceded as regards revenue, the present high duty is found to check consumption—if it be admitted that by the use of wine some improvement may be expected in the general sobriety of the lower classes, and that a country pledged to advance in the principles of free trade, we must ere long remove this highly protective duty, and thus promote a greater interchange of commercial products with other countries—the only question being how and when this change can be brought about, so as to affect, as little as possible, existing interests, and those parties whose fortunes are engaged in the trade. Much as I am in favour of an immediate reduction upon all wines, foreign and colonial, to one shilling per gallon, I am disposed to modify its operation in such manner as will, I hope, conciliate all interests, and induce the Government to adopt my plan, by way of settling a question which, if annually discussed, cannot fail to damage

many important interests, and to keep foreign countries in a state of uncertainty as to the course they should pursue with regard to a most interesting branch of agriculture. I would therefore suggest, that, commencing from the 5th of April next, the duty be lowered to 5s. per imperial gallon. In the year 1854, the number of gallons entered for home consumption was 6,776,086, producing £1,914,387; so that, with the reduction I propose—the increased consumption to produce £2,000,000—should be 8,000,000 gallons, which I think likely to occur the first year. I would, in April 1858, reduce it to 4s. per gallon; and, if the consumption should increase to 10,000,000 gallons, the same amount of revenue would be obtained, namely, £2,000,000. In 1859, I would reduce it to 3s. per gallon; and, at that rate, a consumption of 14,000,000 gallons would produce £2,100,000. At 2s., to produce the same revenue would require a consumption of 20,000,000 of gallons; and, at 1s., a consumption of 40,000,000 of gallons would be necessary to produce £2,000,000. I would leave the period of effecting the last two reductions to the consideration of the Government, due regard being had to the success of the reduction from the present rate to 3s. Though, it should be observed, that even admitting some small loss of revenue from this source, the Treasury will benefit, in 1859-60, largely from the falling in of terminable annuities. Being persuaded that a gradual reduction of the character that I propose would not disturb revenue, and combine the advantages I have ventured to enumerate, I beg to move that the House do resolve itself into a committee to take into consideration a reduction of the wine duties.

Motion made, and Question proposed—

“That, with a view to promote increased commercial relations with France, Spain, Portugal, and other wine-growing countries, this House will resolve itself into a Committee to take into consideration a reduction of the Duty upon Foreign and Colonial Wines.”

THE CHANCELLOR OF THE EXCHEQUER: Sir, looking to the lateness of the period of the Session at which my hon. Friend has brought forward his Motion—looking also to the state of our revenue and expenditure, and to the definitive financial settlement at which the House has arrived for the present year—I think I should be justified in at once calling upon the House to refuse its assent to the

Motion now made without entering into any full statement of the reasons for that course. But I feel that the attention which the hon. Gentleman has given to this subject, and the details which he has laid before the House entitle him to a fuller answer on my part, and that I should be wanting in deference to him and the House if I did not state, not at any great length, but with some argumentative reasons, my grounds for not acceding to the Motion which he has made. In the financial statement which I laid before the House since Easter I expressed the opinion that the great difficulty which the financial reformer has to encounter in removing inconvenient imposts and in improving our fiscal system was the large amount of revenue which it is necessary to raise in order to meet our great annual expenditure. It is, I believe, a fact which rests on good evidence, that in the interval between the American and French wars, and before the latter great contest had added so largely to the amount of our national debt, so that at the commencement of the peace in 1815 it had reached a sum of nearly £800,000,000—when our expenditure did not much exceed the moderate sum of £12,000,000 or £14,000,000, Mr. Pitt entertained the plan, as practicable and feasible, of abolishing all revenue raised by import duties, of abolishing all Customs' revenue, and of raising the entire income of the country by direct taxes and taxes upon internal consumption. If Mr. Pitt were now at the head of the finances of the country, he would assuredly find that such a scheme would be utterly impracticable. It is impossible, with the large expenditure which we now have, to raise a sufficient revenue by internal taxation and direct taxes alone, without resorting to rates which would be found most oppressive. A finance Minister is now obliged to produce between £50,000,000 and £60,000,000 annually; and to attempt to raise that immense sum by taxes levied upon the internal consumption of the country and by direct taxes would, in my opinion, be foolish in the extreme. Under these circumstances it is necessary that we should, to a considerable extent, rely upon import duties as well as upon taxes levied upon internal production. But our system of taxation is so arranged that scarcely any portion of it affects that class of articles of consumption which consists of solid food. We have no taxes upon

bread, biscuit, pastry, meat, poultry, game, fish, vegetables, fruit, butter, cheese, or eggs; and if any person will confine his consumption of food to a combination of the articles I have named, and will be so sober as never to drink any fluid but water, he may defy the inroads of the tax-gatherer. But in devising our system of taxation much recourse has been had to potable articles, or articles of drink. I will state to the House, in the first place, the amount of taxation which is annually raised upon those articles which produce different sorts of drink, and which are not fermented or intoxicating. There is a small duty on cocoa, which produces about £19,000 a year; coffee yields £462,000; sugar, which to a great extent is consumed with beverages, £4,254,000; tea, £5,683,000. Upon these four articles we levy an annual revenue of about £10,418,000. I now come to fermented or intoxicating beverages, upon which a very large portion of our revenue depends. I will take, first, the Customs. In 1853 the duty on rum produced £1,253,000; foreign spirits yielded £1,435,000; wines, £1,924,000; and I will add to these an article which cannot be considered as solid food, which certainly is not a beverage, but which, partaking of the nature of air, may, perhaps, be assigned to fluids—I mean tobacco, the duty on which produces £4,728,000. These articles together produced about £9,340,000. I next take the excise duties, which are connected with different sorts of beverages. The duty on hops yields £440,000; the malt duty £5,418,000; British spirits produce £6,864,000. There is another excise duty which is producing a large revenue, of which a considerable portion may be set down to the consumption of spirits, beer, and different fermented liquors—I mean the duty upon licences, which yields £1,244,000 a year. Of that sum I am told about £1,000,000 proceeds from licences for public-houses, taverns, and other places connected with the consumption of spirits. These excisable articles produced a sum of £13,966,000. These two items produce the sum of £23,306,000; and, therefore, taking together the fermented liquors, and those liquors which are not fermented, we have a total of about £33,000,000 levied exclusively upon different beverages. The House, therefore, will, I think, see that it is of great importance in our fiscal system not to make any change which will diminish the pro-

The Chancellor of the Exchequer

ductiveness of that great branch of our revenue. But I would now come more closely to the arguments of the hon. Gentleman on the subject of the duty on wine. I will state briefly to the House the progress of the duties upon wine. In 1794, the duty upon French wines was 4s. 6d. the gallon, and the duty upon Portuguese wines was 3s. In 1795, the duties were raised respectively to 7s. 4d. and 4s. 10½d. In 1796, they underwent a still greater increase, being raised to 10s. 2½d. and 6s. 9½d. They continued at that rate till 1803, when they were raised respectively to 12s. 5½d. and 8s. 3d. In 1804 and 1805 there was a further increase, and in 1813 the duty upon French wines was raised to 19s. 8½d., and that upon Portuguese wines to 9s. 1½d. In 1814, the duty upon French wines was lowered to 13s. 8½d., and in 1816, the two duties were fixed respectively at 13s. 8d. and 9s. 8½d. These duties again underwent a considerable reduction in 1825, being lowered to 7s. 2d. and 4s. 10d. respectively. That was an important era in the history of the wine duties. They were reduced to the extent I have stated by Mr. Robinson (now Lord Ripon) the then Chancellor of the Exchequer, in consequence of its being believed that the high duties diminished the consumption. In 1831, the difference between French and all other wines was abolished, and the duty was equalised at 5s. 6d. per imperial gallon for all wines except Cape, which was charged at the rate of 2s. 10d. In 1840, that 5s. 6d. was raised to 5s. 9d., which is the amount of the duty at the present moment. Such being the history of the duty upon wines, it is important to observe the consumption since 1795. In 1795, when the duties were not very different from what they are now, and when the population was considerably less, the consumption of wines was 8,238,000 gallons, and the revenue was £1,694,000. In 1803, when the duty was as high as 12s. 5d. on French wines and 8s. 3d. on Portuguese wines, the consumption was 8,226,000 gallons, and the duty, notwithstanding its high rate, produced a revenue of £2,423,000, showing that at that time—during the war—the high rate of duties did not affect the consumption of wines, which remained undiminished. In 1807, when the duty was 13s. 8d. on French and 9s. 8d. on Portuguese wines, the consumption was 6,271,000 gallons, and the revenue amounted to £2,722,000, show-

ing again, notwithstanding the high rate of duty, that the consumption remained large, and that a great revenue was produced. In 1810, the duty was equally high, and that was the year of the greatest revenue, the duty producing £2,786,000. In 1824, the year previous to the reduction, to which I have just alluded, the consumption had fallen to 5,030,000 imperial gallons, producing a revenue of £2,162,000. Notwithstanding the reduction of duty which has taken place since then, from 13s. 8d. on French and 9s. 8d. on Portuguese wines to a uniform rate of 5s. 9d., the consumption of 1854 was only 6,775,000 gallons, and the revenue only £1,914,000. Therefore, in spite of the great increase of population and the reduction of the rate of duty, the total consumption of wine and the total produce of the wine duties have diminished since the early years of this century. I think, then, it follows incontrovertibly from these figures, that in the case of wine we are not to expect the ordinary results to ensue from a reduction in the duty, because there are here evidently other causes in operation beyond the mere pressure of the Customs' duty. Those causes are undoubtedly to be sought in the great change of tastes which has taken place in the upper classes of society with respect to the consumption of wine and the greater sobriety of their habits; and it is only by taking those generally operative causes into consideration that it is possible to account for the phenomena which are presented by the consumption of wine in this country. I now come to speak more particularly with reference to French wine, to which the hon. Member for Pontefract adverted. In 1854, notwithstanding the equality of the duty upon all foreign wines, the proportionate importations of foreign wines from different countries stood to one another as follows:—Of French wine the percentage of total imports was only 8 1-10th, of Portuguese wine it was 36 6-10ths, of Spanish it was 38 3-10ths, and of Sicilian it was 11 1-10th; so that the importation of Sicilian wines appears to be greater than that of French wines. These figures, taken together with the progress which has been made in the consumption of different sorts of wine since the equalisation of the duty, seem to show that there is a decided taste in this country in favour of the stronger sorts of wine of Spain and Portugal. In 1831, when the equalisation of duty took place, the proportionate consumption was as follows:—

Of Portuguese wine 43 per cent, of French wine 4 per cent. and of Spanish wine 33 per cent. In 1854, these proportions stood as I have already enumerated them, so that the increase of Spanish wine had exceeded that of French wine, notwithstanding the equalisation of the duties. It seems to me to follow from this comparison, that no considerable part of the reduction in the consumption of wine at the present time, as compared with the early years of this century, can be attributed to fiscal causes; and it also follows that, inasmuch as the equalisation of the duties on the weak and strong wines of the Continent has failed to produce any remarkable increase in the consumption of weak wines, we cannot expect that a further reduction would be attended with the effect which the hon. Member anticipates. There is only one case in which that reduction could be expected to produce any very important result, that is to say, if the reduction were carried to such an extent as to come into competition with the consumption of British spirits and other fermented liquors produced in this country. It is necessary as our fiscal system is now arranged that the duty on wine should bear some reference to the duty on spirits, on which so large a portion of our revenue depends; and if the duty on wine be carried to so low a point as to make it cheaper to consume foreign wine than colonial or foreign or British spirits, or even beer, then undoubtedly the consumption of weak wines would be greatly increased in this country; but, then, let me remind the House that the duties upon those other classes of fermented beverages would, in fact, operate as a protective duty upon wine, and wine would be introduced into this country under cover of a disproportionate duty upon spirits and beer. But, so long as a due proportion is observed in the rate of duties upon those different classes of fermented liquors, whether produced in this country or imported from abroad, I believe that it is vain to expect that any considerable quantity of the weaker wines of the Continent will be consumed in this country. There is one other point to which I must advert before concluding my remarks upon the Motion of the hon. Gentleman. It is a proposition which has been often made to substitute for the present duty, which is equal upon all classes and qualities of wine, an *ad valorem* duty. Attempts have been made with regard to other great articles of

consumption, to impose *ad valorem* duties upon equitable principles, but have proved unsuccessful. Both before and since I entered on my present office inquiries were instituted by the department of Customs, with the view of ascertaining whether it would be possible to devise any means of imposing an *ad valorem* duty on wine. None has yet been contrived; and I believe it impossible to devise any system by which the quality of wine can be ascertained with so much accuracy as to prevent fraud, and to enable the Government, without a tedious and vexatious process, which would be far more injurious to the importer than the present state of the law, to impose *ad valorem* duties. If, then, it be admitted that it is impossible to impose a duty upon wine on the *ad valorem* principle, the only means by which the inferior wines of the Continent can be admitted into this country, on such terms as would meet the views of the hon. Gentleman, would be to lower the duty to a point which would practically make cheap wine a substitute for spirits and beer, and which would, as I have previously observed, subject them to an unfair competition. I quite appreciate the force of the arguments brought forward by the hon. Gentleman with respect to our relations with France, and I wish that it were in my power to look forward with any hope to our being able at an early period—with reference to the great amount of revenue which it is necessary for us to raise—to place our duty on foreign wine at such a point as would materially increase our relations with our continental neighbours. That is a consummation much to be desired. I cannot, however, say at present that it appears to me we can look forward to its immediate occurrence with any very sanguine hopes, but in the meantime we have this consolation in reviewing our fiscal system, that, however the large amount of our expenditure may render it necessary to maintain rates of duty upon some articles of domestic production, and on some articles which we import that are inconveniently high, and which we would be glad to reduce, yet, nevertheless, our fiscal system is now framed upon equitable principles. It favours no one class of the community at the expense of another class—it favours no one foreign nation at the expense of another foreign nation—it favours no class of importers at the expense of another class of importers—it is equal to all, whether foreigners or natives, and whenever it may happen that a great increase

The Chancellor of the Exchequer

in our wealth and consumption, and a possible reduction of expenditure, may enable us to reduce the rates of some of those duties, we may then have an opportunity of holding out to the taxpayers a prospect which, under the present circumstances of the country, I fear it would be an illusion for us to expect within any period likely soon to occur. After these explanations, I trust the hon. Gentleman will not think it necessary to divide the House upon this occasion.

MR. PELLATT said, he wished to inform the House that the manufacturing interest of the Potteries warmly sympathised with this Motion; they felt that a large portion of their trade was at stake in it, and were anxious that something should be done in order to extend their connections with France. On the other hand, he must confess that the people of France viewed our free-trade principles with suspicion; they could not believe us sincere while we kept up these heavy duties on their light wines, which we professed so much to want. He hoped the time was not far distant when the right hon. Gentleman the Chancellor of the Exchequer would be able to hold out brighter hopes than he had done on the present occasion.

MR. P. O'BRIEN said, he thought that they ought to look to home and reduce the malt duty, if they reduced duties in favour of the merchants of France, Spain, and Portugal. The object of the hon. Gentleman (Mr. Oliveira) was no doubt a legitimate one, but if the duties on wine were reduced, taxes must be laid on the people in another shape, to make up the deficiencies in the revenue. He thought that all that was said about strengthening the "bonds of alliance" with foreign countries was only fine talk. Let foreign merchants meet the English half way, and then they might talk of universal free trade. Some of those cheap wines of which so much had been said, were very sour wines, and he thought that the people of this country would prefer drinking the pale ale manufactured by a Member of that House to drinking those foreign wines, for which they had not yet cultivated a taste. In the absence of any popular agitation upon the subject, he thought it was premature to call upon the Chancellor of the Exchequer to sacrifice so large an amount of revenue as an alteration of the wine duties would entail.

MR. BRAMLEY-MOORE: * Sir, I entirely concur in the observations which

have fallen from the right hon. Gentleman the Chancellor of the Exchequer, on the financial part of this question, and will not go over the same ground. I should not, Sir, have offered myself to the notice of the House, but for the remarks made by the hon. Member for Southwark (Mr. A. Pellatt), and my hon. Friend below me (Mr. Oliveira), which render it necessary for some one to point out the disadvantages which this country labours under in its commercial relations with France, Spain, and Portugal.

My hon. Friend has given the House an elaborate statement of the progress of the wine trade from an early period, and endeavoured to show that the consumption has increased when reductions of duty had been effected. Now, it is a very remarkable fact that there has been little variation in the consumption of wine, and that it has not been affected by the reduction of duties. When Mr. Huskisson reduced the duty in 1825, there was no increase of consumption, and it has continued with little variation from that time to the present day; and if you will take into the calculation the increase of our population, the consumption of wine has actually diminished. The following is the official return of wine retained for consumption:—

	Gallons.	Duty paid.
1825	8,009,542	£1,815,068
1830	6,434,445	1,351,607
1831 Duty reduced to	6,212,264	1,356,208
1835 5s. 6d.	6,420,342	1,691,532
1840 Duty 5s. 3d.	6,553,992	1,872,799
1845 "	6,736,131	1,787,560
1850 "	6,437,222	1,824,457
1855 "	6,296,439	Duty not ret.

Wine is consumed by the rich, and those who can well afford to pay for it; it is therefore to my mind a proper article for taxation. And before we meddle with the duty on wine, we must do an act of justice to the labouring classes and mechanics at home, by reducing the duty on malt, which affects the price of those really national beverages which are used by all in the shape of beer and porter.

The right hon. Gentleman the Chancellor of the Exchequer stated the duty on malt to be only £5,690,000; but, Sir, I beg to remind the hon. Gentleman the duty paid on malt for the past year (according to a Return lately made to this House), was £6,767,000. [Here the CHANCELLOR rose and intimated that he quoted the duty for 1853.] I beg the right hon. Gentleman's pardon; I under-

stood him to quote the duty for the year past; however, I give the latest return for the past year, when it amounted to the sum I have named, £6,767,000. This sum exceeds the duty on wine more than threefold; and malt is consumed mainly by the poorer classes. I submit it has stronger claims than wine on the sympathy of this House for reduction. The consumption of malt, owing to the increased duties, is less than it was fifteen years ago.

	Bushels.	Rate of Duty.	Amount of Duty.
1841	30,164,448	2s. 7d. and	£4,889,252
1845	36,545,900	5 per cent.	4,937,959
1846	42,097,085	"	5,891,142
1850	40,744,752	"	5,511,441
1854	36,819,360	4s.	6,042,888
1855	33,887,564	"	6,767,076

I now come, Sir, to our commercial relations, and will begin with France. France has no claim upon us for further concessions in the way of reduction of duties, and it is a delusion to suppose we can extend our commerce by reducing the duty on wine, or thereby induce, as my hon. Friend would lead you to suppose, France to relax her fiscal system, and adopt a more liberal commercial policy. It is England who ought to ask this of France, that she should give something in return by way of reciprocity for the advantages we have conceded. We have thrown open the whole of our trade to France; she can trade to all our Colonies on the same footing as we do ourselves; she can compete with us in our colonial markets on equal terms; and she can bring produce from our Colonies or any part of the world to England on the same footing as we can do. I ask, can we do the same to France? If I, as a British merchant, wish to import sugar or coffee into France from South America, Ceylon, or any other country under the British flag, I am subjected to differential duties, and so prohibitory in their operation as to exclude British shipping. In addition to a large differential tonnage duty on the ship, there is on the cargo in British bottoms a difference varying from 15 to more than 100 per cent. Thus I, as British shipowner, am excluded from the valuable carrying trade of Lagaira, St. Domingo, Costa Rica, and even our own Colonies, into France.

In answer to the hon. Member for Southwark (Mr. A. Pellatt), that if we reduce the duty on French wine, we might induce France to receive our pottery and cutlery on more favourable terms, I beg of the

House not to be deluded by any such arguments. We admit into England all French manufactures, at merely nominal duties, and her trade with England has increased since 1843, from £2,500,000 to £10,500,000, and nearly all in a highly manufactured state; while, on the other hand, our exports to France remain almost stationary, being now only about 3,000,000, and consisting mainly of coal, unwrought copper, China clay, wool, and other articles, on which very little skilled labour has been employed.

I submit, it is for France to make concessions, and meet us in a spirit of reciprocity; her people want our pottery, cutlery, and cottons; and at reasonable duties—we should have a large accession to our trade, and the advantages be mutual.

I now come briefly to notice our relations with Spain. Spanish ships enjoy all the advantages of the British flag, both with regard to imports and exports to England, our Colonies, and all parts of the world, but Spain concedes nothing in return. You will find a British ship loading side by side with a Spanish ship for Spain, Cuba, or Manilla; the Spanish ship obtains 60*s.* to 70*s.* freight per ton, and the British ship only 25*s.* to 30*s.* per ton, owing to the differential duties levied on the cargoes at the port of discharge. I ask, is this right, that while we place Spanish vessels, in all respects, on the same footing as British ships, that I, as a British shipowner, should be compelled to accept a freight so much lower than the Spaniard, in our own docks? Here, I say, we should ask for more liberality from Spain, before we make further and uncalled-for concessions.

With regard to Portugal, we are her best customers; and notwithstanding that we place Portuguese ships and produce on an equality with British ships from our Colonies and all parts of the world, yet she imposes (according to the evidence before the Select Committee of this House) a duty of £6 per pipe on wine exported to England, and only 6*d.* per pipe to the United States, thus making the export duty to England 240 times more than to the United States. My hon. Friend says, this has been lately reduced; I give it as I find it in Mr. Forester's evidence before the Wine Committee, page 14.

The average exports from Portugal, for nine years, amount to 33,337 pipes of wine; of these 22,861 come to Great

Britain; 1,917 to the continent of Europe; and 8,559 to the rest of the world. Thus Great Britain takes two-thirds of the entire exports of wine from Portugal, or twelve times more than the continent of Europe.

I therefore submit, before we make further reductions on wine, we ought to require some relaxation in favour of the high fiscal duties on our manufactures, going to Portugal. The effect of lowering this duty would be to raise the price in Portugal and increase adulteration, the production not being equal to the demand in its pure state. I repudiate protection in ships and manufactures, and ask for free trade and reciprocity. British energy and industry will do the rest.

The hon. Gentleman urges upon the consideration of the House the moral advantages which will result; and how it would improve the condition of the labouring classes, if the duty were reduced to 1*s.*, and the lower descriptions of wine thereby brought into general consumption. This could only be done at the sacrifice of the malt duty. But the evidence runs quite in a contrary direction, and witnesses of the highest respectability give it as their opinion, that the working classes would not drink the low-class wines, and that they would prefer beer. With the permission of the House, I will read one or two extracts from the evidence. Mr. Maxwell, upwards of twenty years in business, says at page 446, vol. i. :—

“ I place the large class of tradesmen with the bankers and merchants, and gentlemen of private fortunes. The next would be the respectable shopkeepers. It is a great mistake to suppose that they do not take wine; they take a considerable quantity of wine now. There might be a small increased consumption then, at a lower duty, but not very great. Then the next class will be the lowest class, the million if I may so express it; and I can safely give an opinion, after some little experience and consideration of the subject, that I do not believe that they would drink the class of wines you could sell them at a very low price; and they would be exceedingly foolish if they did, to take it in preference to good beer. I can mention one or two facts, which have often struck me in my own business. We have a number of people coming into our counting-house in the day, of the lower class of carmen, and that class of men. It is almost universal for them to ask for something to drink. If you offer them a glass of wine, I have known them refuse it; they have often said to me, ‘Give me threepence to buy a pot of beer, and I would be much obliged to you.’ Then again, I have actually heard it stated, I will not vouch for it being the fact, but I believe it is the case, we are very liable to pillage, and our men will take the wine; but if you put beer in the cellar, they will take the beer in preference to the wine.

Mr. Bramley-Moore

though they may take the finest wine in the cellar; that is the positive fact. And if you come to this class of wine—I have not attended this examination much, and do not know the views the gentlemen moving in the matter take—but if you come to introduce this class of wine, it would turn out a complete failure; and at the very low duty they propose, I believe the revenue would suffer greatly."

He says there is a diminished consumption of wine in the navy. Mr. Hart, page 427, says—

"His house has been established a century. He does not think the labouring classes would consume low-class wines duty free; always found men prefer a glass of beer; has seen it in hundreds of instances; they prefer ale or porter; there is more nature in it; foreigners prefer it to their low wines; they drink low wines in their own country, because they can get nothing better."

Mr. Bushell, page 753, says—"Low-class wines would not be consumed at any duty; labouring men prefer beer."

I might quote many other instances, but will not trespass on the patience of the House.

I think I have shown that low-class wines would meet with no favour in this country; and if the duty were reduced to 1s., it would be the means of introducing brandy at this rate, partly under the guise of wines, and the increased quantity which would be used in the bonded vaults, to strengthen the poor wines to make them keep. But, Sir, I will prove to the House, from the evidence of the hon. Gentleman who makes this Motion, that wines may be imported at a very moderate cost. The hon. Gentleman (Mr. Oliveira) tells the Committee, at page 254, vol. i.—

"I am myself in the habit of importing for my own private use and that of some friends, who like those wines, considerable quantities, and I find that the cost price is about 20s. a dozen, with the present duty. In consequence of some correspondence with my cousin, the late Count Tojal, an arrangement was made, by which I imported them at £5 5s. per case of three dozens, which returned a very large profit, nearly 50 per cent."

[Mr. OLIVEIRA: That is quite correct.] Very well, if the hon. Gentleman will content himself with more moderate profits than 50 per cent, and be satisfied with a remuneration of something like 8 or 10 per cent, he may, if he please, introduce wine at a very reasonable price for general consumption.

I will not trespass further on the time of the House, and beg to thank the House for its indulgence, and the patient hearing which has been given me.

MR. OLIVEIRA, in reply, said that,

after what had fallen from the right hon. Gentleman the Chancellor of the Exchequer, he should not press his Motion to a division.

Motion, by leave, *withdrawn*.

REFORMATORIES FOR PENITENT FEMALES.

MR. BIGGS said, he rose to move—

"That this House will resolve itself into a Committee to consider the propriety of granting sums in aid of any reformatories for penitent females at present existing, or that may hereafter be established."

The question in connection with which he begged to submit the present Motion to the House was one of great importance, and of which he could not but express his regret that it had not been brought before Parliament at an earlier period. In order to entitle his Motion to some chance of success he had taken the trouble of making inquiries of the various reformatories throughout the kingdom, and he found that those institutions were altogether supported by the munificent donations of private individuals, but he was sorry to add that the funds thus raised were utterly inadequate to the requirements of the class for whose benefit they were destined. He thought it was the duty of a Christian Legislature to come forward under such circumstances, and to meet so great a social want. Institutions and hospitals for the reception of the sufferers from almost every form of human infirmity were well and fairly supported, but he feared that the very nature of the establishments to which he desired to call attention prevented the pure and virtuous from taking any active share in their support. From the very peculiar nature of the subject the generality of people appeared afraid to enter into it. It was an ascertained fact that in this metropolis alone there were 20,000 unfortunate women, whose lives were a cause of disease and demoralisation to others, a curse to themselves, and a pest to society; and the number in provincial towns was, no doubt, equally large in proportion. Thousands of those unfortunate creatures, he found, made unavailing application for admission to reformatories, which were unable to receive them on account of the want of funds, and they thus were forced to the alternative of continuing a course of life which they had endeavoured to abandon. Could the expenditure of a few thousands on the part of the Legislature be questioned when it was

known that for the want of it those outcasts of society were yearly dying by thousands, ignored, unnoticed, and unknown? It was a fact established by hospital returns, and confirmed by the experience of medical men, that the average duration of life amongst the unfortunate class to which he referred was from five to seven years. Assuming it to be seven years, they would have a mortality in London alone amounting to 3,000 per annum, and throughout the country to something like 20,000 or 30,000. In London there were but eighteen reformatories; in the provinces, about twenty—a number, even supposing them to be well supported—a supposition which was at variance with facts—utterly inadequate to the numbers he had quoted. During the year 1855, no less than 2,598 applications for admission into the institutions of London had been refused on account of want of funds. Such a state of things was frightful to contemplate, and ought, if possible, to be put an end to. There was one institution in London, the London Society, for the protection of women, in which the girls were under fifteen years of age, and which, under the name of a school, received a grant from the State, and why should not women of a more advanced age receive similar assistance to enable them to return to the paths of virtue? To prove that the general opinion entertained as to the utter depravity of these unfortunate women was an erroneous one, he might mention that in the existing institutions a considerable amount of the expenses connected with them was defrayed by the labour of the inmates; and it was his intention, if the House agreed to his Motion, to move a Resolution the effect of which would be that reformatory institutions already in existence, or which might hereafter be established, should have a right to claim from the State for their support a sum equal to that which was raised by voluntary efforts. If, at that late period of the Session, he did not succeed in carrying his Motion he would, at least, have the satisfaction of knowing that he was the first to moot a question which must recommend itself to the benevolence of all. He could only say that he intended to bring the subject before the House again and again, until he succeeded in making a favourable impression.

MR. SPEAKER said, that the Motion must come with a recommendation from the Crown. It was therefore out of order, and could not be proceeded with.

Mr. Biggs

GENERAL BEATSON.

COLONEL DUNNE said, he rose to move for a copy of the correspondence between the Minister at War and General Beatson, as to certain charges preferred against that officer. The question connected with this correspondence involved the conduct of a general officer who had served for thirty-five years in the British service, who had gained the gold medal, and had six times received the thanks of his country for his distinguished services in the field. The facts connected with the case were as follows:—Last year the Government had deemed it necessary to raise a corps of Turkish troops, and selected to command them an officer who was well acquainted with Asiatic customs. General Beatson was the officer who had attained this high distinction. The corps of Bashi Bazonks, known as Beatson's Horse, were ultimately placed under the command of General Vivian. General Beatson was recalled, and when he left the country there were accusations made against his conduct after he had received orders to deliver up the troops to General Vivian, which, if true, subjected him to the punishment of death. On the 5th of March, General Vivian wrote to Lord Panmure referring to those charges. The first was that he had endeavoured to excite mutiny amongst the officers and men under his command; the second was, that he had sent out a "round robin" amongst the men, with a view of obliging the Government to re-appoint him to the command. General Vivian thought it his duty to forward those charges to the Government, with a view, not only to the good of the service, but also in justice to General Beatson himself. The Government directed a Court of Inquiry to assemble at Schumla to investigate those charges, and that Court of Inquiry took place altogether unknown to General Beatson. Now, he (Colonel Dunne) must complain that that was a course which had never before been followed in the British service. On the 5th of March this inquiry was entered upon, and on the 6th of April the Court sent forward its Report. General Beatson, up to that time, knew nothing whatever of the charges that had been made against him. It was not until the 17th of May that, at General Vivian's suggestion, a copy of the charges was sent to him. Now, it was the fact of this secrecy of which he (Colonel Dunne) complained. Nothing, however, resulted from this Court of Inquiry, and General Beatson did not to this hour know

whether he was considered guilty, or was absolved from these charges. Now, he would ask, was that fair, either to himself, or to the profession to which he belonged? He (Colonel Dunne) supposed that the Government considered that the charges were absurd, because, if they had believed them to have the slightest colour, they ought to have brought General Beatson to trial before a court-martial. They had, however, done nothing; they had only refused to give to General Beatson a fair acquittal, and to acknowledge that they were in error. He should therefore move that the whole of the correspondence should be laid upon the table and given to the public. General Beatson was ready to meet the charges. He had over and over again written to the noble Lord at the head of the War Department, but could get no satisfaction. The first charge was that General Beatson had incited two colonels to mutiny. General Beatson had written to both these officers, and from their letters it appeared that there was no foundation for that charge. If General Beatson was guilty of the charges brought against him, the papers ought to be laid on the table that he might receive the condemnation which he would deserve. If, on the other hand, he was innocent, a brave and distinguished officer ought not to be kept in ignorance of who were his accusers, but should have the fullest opportunity of clearing himself from the false and malicious accusations brought against him. He therefore demanded, as a simple act of justice to General Beatson, that this extraordinary correspondence should be at once produced, and the whole case against him placed before the world.

Motion made, and Question proposed—

“That an humble Address be presented to Her Majesty, that She will be graciously pleased to give directions that there be laid before this House, a Copy of the Correspondence between the Minister at War and General Beatson, lately employed as Commander of a Turkish Contingent, as to certain charges preferred against that Officer.”

MR. FREDERICK PEEL said, that the hon. and gallant Member had correctly stated the nature of the employment which had been given by the Government to General Beatson. That officer was instructed to raise a body of irregular cavalry in Asia Minor, Syria, Bulgaria, and Albania, and to take the command of the men when raised. That force first came under the

command of General Beatson in the month of June; but in the September following it was deemed expedient that it should form part of the Turkish Contingent under General Vivian, and that another body of irregular cavalry should be placed under General Beatson. The charges brought against General Beatson were connected with this transfer of his command to the officer who succeeded him. They were to this effect—that he had instigated some of the commanding officers of the regiments under him to decline to serve under any other officer than himself, and had sought to induce the natives of the force to prefer remaining under his command rather than that of any other person. These accusations were sent anonymously to General Vivian, who forwarded them to Her Majesty's Government, who felt it their duty to direct an inquiry into the matter, with a view, if possible, of verifying the statements made. General Smith, at Schumla, who was with General Beatson on the occasion, was instructed to set that inquiry afloat. That inquiry did take place, and the statements of the commanding officers were forwarded to the War Department. That inquiry, however, might still be considered pending, inasmuch as the correspondence connected with it had not as yet closed. The result, however, of this inquiry, as far as it had gone, did not justify the Government in taking any proceedings against General Beatson. The course taken by the War Department was the obvious and usual course, in instituting an inquiry with a view merely of ascertaining whether there were *prima facie* any grounds for taking proceedings against General Beatson. From what had taken place he apprehended there would be no further proceedings in the matter. As, however, the correspondence had not as yet closed, he could not assent to the Motion of the hon. and gallant Gentleman.

COLONEL DUNNE said, he wished to ask whether it was usual to hold a secret Court of Inquiry upon a British officer in respect to charges contained in an anonymous communication? Would the hon. Gentleman tell him what was the report of this Court of Inquiry? He (Colonel Dunne) would venture to say that such a proceeding could not take place in the most absolute army on the Continent—even in the Russian army. Having served in the British army since he was a boy, he certainly never

thought that such an occurrence could take place. He considered that the Government should have sent to General Beatson at once, not only the nature of the charges that were to be brought against him, but the Report of the Court when they had received it. General Beatson had applied frequently to the War Department on the subject, but could get no redress from it. The country, he believed, would be thoroughly disgusted with the conduct of the War Department in the matter.

Motion put and *negatived*.

CURSITOR BARON OF THE EXCHEQUER BILL.

THE CHANCELLOR OF THE EXCHEQUER said, he begged to move for leave to bring in a Bill to abolish the office of Cursitor Baron of the Exchequer, vacant by the decease of the right hon. George Bankes. The duties of the office were of a merely formal nature, and a small salary was attached to their performance.

Leave given.

Bill ordered to be brought in by the Chancellor of the Exchequer and Viscount Palmerston.

Bill read 1^o.

CONSOLIDATED FUND (APPROPRIATION) BILL.

Order for Third Reading read.

Bill read 3^o.

SIR GEORGE PECHELL said, he wished to ask whether the correspondence with foreign Governments relating to the slave trade, in continuation of former correspondence on the same subject, would be laid upon the table? The services in which the navy had recently been engaged in the Black Sea and the Baltic had naturally diverted attention from the measures adopted by Her Majesty's Government for repressing the slave trade on the coasts of Cuba, Brazil, and Africa. He would take that opportunity, however, to express his acknowledgments to the noble Lord at the head of the Government for the exertions he had made to obtain valuable treaties on this subject, and also for having carried those treaties into effect by maintaining an efficient naval force on the coasts of Africa and Brazil. Strong hopes had been entertained, after the engagements entered into by Spain for the repression of the slave trade, that those engagements would be faithfully fulfilled; but it had been shown before the Committee that had

Colonel Dunne

been moved for by the late Mr. Hume, that, notwithstanding the promises of the Spanish Government and of the Captain General of Cuba, slavers were actually fitted out under the guns of the Spanish ships of war at the Havannah. It was notorious, also, that the Government of Brazil had favoured the introduction of slaves into that country. The British cruisers on the coast of Cuba were entirely unsuited to the service on which they were employed, and they ought to be replaced by vessels of much lighter draught of water. He would therefore beg to suggest to the First Lord of the Admiralty that some of the new gunboats, which were peculiarly adapted for that service, should be stationed at Nassau, in the Bahamas, and they would be well able to follow slavers into the shallow waters of the adjacent seas.

VISCOUNT PALMERSTON said, he was sure the House was aware that nobody had shown more zeal for the suppression of the slave trade than his hon. and gallant Friend who had just addressed them, and he felt certain that his hon. and gallant Friend must feel a just and commendable pride in the reflection that such eminent success had attended the exertions in which he had taken part. He thought the slave trade might be regarded as extinct in Brazil, for though attempts had been made to revive it, those attempts had not been attended with much success. He thought we might depend upon the Government of Brazil to enforce those laws which had been enacted for the suppression of that trade. Those who formerly invested their money in this traffic now employed it for purposes of internal improvement, and there was generally evinced throughout that country a spirit of hostility to the revival of the trade. There had, however, been a great mortality among the slave population, and speculators from the United States had endeavoured to take advantage of the circumstance by importing negroes, but he believed that very little success had attended their efforts. With regard to Cuba, he was sorry to say that the Spanish Government, though profuse in their assurances and liberal in their orders, had not always been so active in carrying those orders into effect as might be desired. The Captains General who went there usually did very well for the first year or two, but their virtue soon yielded to the temptations to which they

were exposed, and their vigilance relaxed so far as to give the slave dealers considerable advantage. During the late war the Admiralty had withdrawn from the station certain vessels employed in the suppression of the slave trade; but there were now in the navy vessels well calculated for that service; and he could assure his hon. and gallant Friend that the First Lord of the Admiralty was anxious to employ such as would be best adapted for watching the coast of Cuba. He was afraid that we must rely more on our own vigilance than on the orders issued by Spain. Though a few cargoes might now and then be landed in Cuba, he did not think the numbers bore any proportion to what was formerly imported into that country; and he would only say, in conclusion, that if we succeeded in thoroughly putting down that horrid traffic, it would be one of the proudest triumphs ever achieved by any country.

Bill passed.

INCOME AND LAND TAXES BILL.

Order for Committee read.

House in Committee.

Clause 1 *agreed to.*

Clause 2.

THE CHANCELLOR OF THE EXCHEQUER said, he had received representations from some of the clerks to the Commissioners of the Income-tax, complaining that by this clause their salaries would be reduced in amount. He found, on examination, that the complaint was just, and therefore he was prepared to make some concession. He proposed that a poundage of 2*d.* should be paid till the salary amounted to £500 a year, and that after that sum the poundage should be 1*d.* That, he thought, would be satisfactory to the class of persons interested.

MR. T. CHAMBERS said, he would suggest that the reduction should be prospective from the 5th of April next. He was glad to hear that the Chancellor of the Exchequer had modified his Bill in this respect, as it would have been most unjust to restrict the poundage to £800 in all cases.

MR. W. WILLIAMS said, the only fault he had to find with the Chancellor of the Exchequer was that he had not made a larger reduction. It was shown by a recent return that one of the income-tax collectors received a salary of £6,600 a year, in addition to the profits of other

occupations in which he was engaged. Many of his brother officials did not receive more than £60 or £70 for performing the same duties. The best plan would be to limit the salaries to a certain amount, all the percentage above that amount to go into the Exchequer.

THE CHANCELLOR OF THE EXCHEQUER said, the performance of the duties of these officers for the present year had not yet commenced, and therefore it was competent to the House, without violating any contract, to revise their salaries. He thought that, by the operation of the increased income tax, the salaries of the present clerks of the Commissioners were in some cases extensive; but he only proposed to deal with the salaries of thirty out of 700 clerks. The salary of the City of London clerk was stated in the return at £6,614 a year. That was the amount of the salary which he received before the most recent addition to the income tax, and probably the same official would now be in the receipt of upwards of £7,000 per annum. His outgoings could not be more than £1,000, and therefore, according to the present percentage, his net income would be about £6,000, or more than the salary of the First Lord of the Treasury, the Secretaries of State, or the Chancellor of the Exchequer, who was at the head of the Department. The House would see that, if they were to preserve a due gradation in the salaries of the Revenue Department, the remuneration of Mr. Till was unreasonably high. Again, the collector in Liverpool received a salary of £3,215, and the collector in Manchester a salary of upwards of £3,000. No one could think the proposed reduction unreasonable. It would still leave the collector in the City of London a sum of between £3,000 and £4,000 a year, and some of the other collectors a salary as large as that of the great officers of State.

MR. HENLEY said, he wished to have an explanation of the previous clause, which seemed simply to repeal a provision in an existing Act that discharged lands from the land tax after the redemption money was paid.

THE CHANCELLOR OF THE EXCHEQUER said, the provision which it was proposed to repeal limited the power of redemption to persons who had estates in fee. A former Act allowed persons having limited interest to redeem under certain

restrictions, and what he proposed was to remit the law to its ancient state.

MR. HENLEY said, he very much doubted whether the Act referred to was of the nature which the Chancellor of the Exchequer supposed, he still apprehended that the effect of the clause in the present Bill would be such as he had already stated.

THE CHANCELLOR OF THE EXCHEQUER said, that if the Committee would allow the clause to pass now, he would ascertain whether there was any mistake, and state the result upon some future occasion.

Clause *agreed to*, as were the remaining clauses.

House resumed.

Bill *reported*.

STAMP DUTIES BILL.

Order for Committee read.

House in Committee.

Clause 1.

Mr. VANCE said, that by the present Bill the stamp duty on the proxies of the shareholders of a company was reduced from 2s. 6d. to 6d. At the meetings of large railway companies there was great abuse in the system of voting by proxy, and he did not think that the proposed reduction would abate the evil. He wished to propose as an Amendment that the duty should be reduced to 1d., and, if that proposition were carried, the shareholders might make it compulsory on the directors to send a stamped form of proxy to every shareholder, and thus nearly every proprietor might be represented at the meetings.

THE CHANCELLOR OF THE EXCHEQUER said, the reduction of duty effected by the Bill would be considerable. If shareholders would not be inclined to pay 6d. stamp duty for a proxy, they could not attach very much importance to their vote when great pecuniary interests were concerned. It had been represented to him by several persons connected with railroads, that the reduction of duty to the amount stated in the Bill would be satisfactory, and he trusted that the Committee would approve it.

MR. JAMES MACGREGOR said he would beg to remind the right hon. Gentleman that there was a Return before the House, which showed that the capital embarked in railways amounted to over

The Chancellor of the Exchequer

£300,000,000 sterling. while the number of proprietors was 167,000. Well, of that number it would appear that four-fifths were non-resident, and of that proportion only one-twentieth sent in proxies. The proposed reduction in the stamp was, no doubt, very considerable; nevertheless, the tax was still too high. Take the case of a great company like the London and North-Western, with 12,000 proprietors. Why, the sum levied by means of the proxy votes on the occasion of an important meeting would amount to a very heavy item. He believed, if the tax were reduced to 1d., then it would become the policy of railway directors to issue proxies to all non-resident shareholders.

MR. HANKEY said, he thought no further reduction was required than was proposed by the Bill.

Amendment *negatived*.

Clause *agreed to*; as were the remaining clauses.

On the Motion of the CHANCELLOR of the EXCHEQUER a new clause was added to the Bill, exempting from the duty admissions to the freedom of the City of London by redemption.

In reply to Mr. COWAN,

THE CHANCELLOR OF THE EXCHEQUER said, he could not hold out any hope that the benefit of the reduction would be extended to instruments by which creditors empowered a few of their number to represent them at meetings, as that class of instruments had an affinity with powers of attorney rather than with proxies.

House resumed.

Bill *reported*, as amended.

COURT OF APPEAL IN CHANCERY (IRELAND) BILL.

Order for Third Reading read.

Bill read 3^o.

MR. WHITESIDE said, he would beg to advise the Government not to fill up vacancies in offices in Ireland which were intended to be immediately abolished. The practice prevailed, and the consequence was that healthy men became burdens for life on the funds of the country to the extent of their salaries. One gentleman thus happily circumstanced had said that he was indebted to his friends the Whigs for giving him £1,000 a year for reading the newspapers in his office, and he was indebted to his friends the Tories for giving him another £1,000 a year to read the

newspapers at home. He hoped any vacancy which might occur in the five Masterships in Chancery or in the two Commissionerships in Bankruptcy would not be filled up.

Bill passed.

LEASES AND SALES OF SETTLED ESTATES BILL (HAMPSTEAD HEATH).

Order for Second Reading read.

Motion made, and Question proposed, "That the Bill be now read a Third Time."

SIR JOHN SHELLEY said, he wished to give notice that he should move in Committee to insert in this Bill the clause which was inserted in that House in a similar Bill on a former occasion, the effect of which would be to prevent the owner of Hampstead Heath from building on that property.

MR. SEYMOUR FITZGERALD said, he objected to the Bill in toto, considering it highly improper that the Court of Chancery should have the power of authorising a person to act in direct contravention of the wills of settlers. He wished to call attention to the fact that the Bill, although it had been on the books for some weeks, was only attempted to be got through just at the fag-end of the Session, when hon. Members were not in their places. He should, therefore, move that the Bill be read a second time that day three months.

LORD ROBERT GROSVENOR said, he was not prepared to oppose the second reading of the Bill, which he thought was a good one in its general principles. Should, however, the clause referred to by the hon. Member for Westminster (Sir J. Shelley) be not agreed to, he should oppose the further progress of the Bill.

THE SOLICITOR GENERAL said, he hoped that the general benefit which the Bill would accomplish, would not be lost on account of the special objection to the possible enclosure of Hampstead Heath. A clause, to which he had assented, had been introduced into a similar Bill last Session, which had been intended as a protection against an invasion of public rights. At the same time he was not a person to consent to the introduction of a clause directed entirely against an individual, concerning whose particular intentions he believed a great mistake existed. The Bill was intended to relieve persons interested in settled estates from the necessity of coming to Parliament for powers which, however consistent with the interests of all parties

concerned, had been omitted from the settlement. If the House would consent to the second reading of the Bill he would make it an early order on Friday, when there would be ample opportunity of discussing the details.

MR. MALINS said, he should give the Bill his entire support, but he would not consent to a public Bill restricting private rights. If, therefore, the clause in question was inserted he should give the measure his most strenuous opposition.

MR. WHITESIDE said, that from a mere love of legal right, he should certainly oppose the introduction of the clause proposed by the hon. Member for Westminster, because it was against every principle of justice that they should interfere with the rights of a private individual on the mere assumption that he intended to interfere with Hampstead Heath.

MR. HENLEY said, his hon. and learned Friends behind him had denounced with much virtuous indignation a general clause which they said would affect a particular individual. Now, he should like those hon. and learned Gentlemen to tell him whether this general Bill would not also affect that individual, and if so, why did they support it? For himself, he must confess that he did not like this Bill at all. It was nothing more than making wills for men, and giving to persons rights regarding property which those who made the wills never contemplated conferring. If his hon. and learned Friend (Mr. S. Fitzgerald) divided the House he should certainly vote with him.

Question, "That the word 'now' stand part of the Question," put, and *agreed to*.

Main Question put, and *agreed to*.

Bill read 2^o.

The House adjourned at a quarter after Two o'clock till *Thursday*.

HOUSE OF LORDS,

Thursday, July 17, 1856.

MINUTE.] *Sat First in Parliament.*—The Lord Boyle, after the Death of his Grandfather.

PUBLIC BILLS.—1^a Consolidated Fund (Appropriation); Court of Appeal in Chancery (Ireland).

2^a Coatham Marriages Validity; Indemnity; Formation, &c. of Parishes; Nuisances Removal, &c. (Scotland); Episcopal and Capitular Estates Continuance; Customs (No. 2); Railways Act (Ireland), 1851, Continuance; Turnpike Acts Continuance (Ireland).

3^a Revenue (Transfer of Charges).

FORMATION OF PARISHES BILL.

Order of the Day for the second reading read.

THE EARL OF SHAFTESBURY, in moving the second reading of the Bill, said, that its object was to amend and enlarge an Act passed some years ago, called Peel's Act, whereby populous districts might be formed into parishes. There was a body called the Church Building Commission, which had been appointed for the purpose of portioning out such districts and building churches therein, and that Commission having expired, the present Bill had been introduced for the purpose of transferring its powers to the Ecclesiastical Commissioners, of enabling those Commissioners to build churches, and of assigning to them various rights and jurisdictions which they had not hitherto been entitled to exercise. At present, the greater part of the services of baptism, marriage, and burial took place in the mother church of the parish, and in populous districts great confusion and disorder were thereby caused in the sacred edifice, while much dissatisfaction was felt on the part of those who were obliged to travel a long distance to take part in the marriages and burials. In the collegiate church of Manchester, as many as sixty marriages had sometimes taken place on a Sunday; while in St. Pancras, London, there were sometimes between thirty and forty. It was important to the Church of England that there should be an easy access to all its services, and that there should be a multiplication of districts enjoying the full power of performing all the services of the Church. The Bill now before their Lordships would, it was hoped, contribute to induce people to come forward and multiply these districts.

Moved, That the Bill be now read 2^a.

THE BISHOP OF OXFORD said, he had much pleasure in supporting a Bill which would enable the Church to develop itself according to the spiritual needs of the population, and should rejoice to see the Bill become law.

THE EARL OF DERBY said, he was disposed to give his assent to the second reading of the Bill, but, since there were many details in it which required great consideration, that it was desirable that it should be referred to a Select Committee where they could be examined. He did not wish to interpose any delay, but the measure was not one that ought to be passed hastily.

THE EARL OF SHAFTESBURY said,

he had no objection that the Bill should be referred to a Select Committee; but, at this late period of the Session, there was some danger in adopting the suggestion of the noble Earl. The measure was one of vital importance, and he was authorised to say that it had the entire sanction of the Lord Primate. He trusted that if the Bill were referred to a Select Committee, they would meet to-morrow, so that no time should be lost.

LORD REDESDALE thought that the appointment of a Select Committee need not delay the passing of the measure in the present Session.

Motion agreed to.

Bill read 2^a accordingly, and referred to a Select Committee.

BISHOPS OF LONDON AND DURHAM
RETIREMENT BILL.

Order of the Day for the House to be put into a Committee read.

Moved, That the House do now resolve itself into a Committee.

LORD REDESDALE: I submit to your Lordships whether, before going into Committee, you ought not to have the correspondence between the Bishops of London and Durham and the Government, relating to their retirement, and which has been moved for by a right rev. Prelate (the Bishop of Oxford), laid upon the table of the House. The preamble to this Bill states that these right rev. Prelates have represented to Her Majesty's Government their inability to perform their duties, and their desire on that account to vacate their sees. We know nothing—except from the representations of Her Majesty's Government—of the terms upon which that representation has been made. We do not know whether the conditions are such that the Bill cannot be amended without breaking them. We do not know whether consent was given by these right rev. Prelates upon the understanding that there would be a general Bill, or upon the understanding that there would be a measure personal to themselves only, because I must repeat what I said on a former occasion, that upon the latter supposition, this measure is a mode of carrying out a simoniacal contract, and I cannot believe that the right rev. Prelates could, however incautiously, come to agree to a proposition that a separate treaty should be made with them. They may have said that if a general measure were passed, they would willingly avail themselves of it;

but I can hardly believe it possible that they would consent to treat in a manner which, if a rector so treated with his patron, would lead to the charge of a simoniacal contract. Under these circumstances, I do think the House ought to have the correspondence to which this Bill relates, and I hope the Government will allow the Committee to be postponed till Monday.

THE LORD CHANCELLOR: That the House is entitled to the correspondence in question no one can doubt, and there is not the slightest reluctance or hesitation in laying it upon the table; but I trust your Lordships will not make that very natural wish on the part of my right rev. Friend (the Bishop of Oxford) ground for not proceeding with this stage of the Bill. Notice having been given by my right rev. Friend that he would move for the correspondence, I immediately communicated with the First Lord of the Treasury, in whose hands the correspondence rests. Unfortunately, I have not got it yet, but no doubt it will be laid upon the table to-morrow. I can, however, assure your Lordships that the noble Lord is quite mistaken in supposing it relates to a general measure. It distinctly shows that these right rev. Prelates did not suppose they were doing anything simoniacal. The language of the Bishop of London was, if by law it could be done, he was anxious to do it, in consequence of the difficulties he found in discharging the duties of his office. With regard to the Bishop of Durham, I believe the letters also show that he considered the matter related specifically to himself.

THE BISHOP OF OXFORD: I hope your Lordships will well weigh this objection before you go into Committee. The going into Committee implies that you are about to consider the details of this measure, involving the amount of salaries and proposed pensions to these right rev. Prelates; and this your Lordships are about to do without any knowledge whatever, except on the statement of Her Majesty's Government, as to the previous stages of this arrangement. I am bound to say—and though I have no authority to say it, yet from my own knowledge of the circumstances I pledge my truth for it—that what has fallen from the noble and learned Lord on the woolsack does not give the true state of the case. Of course I do not, for a moment, impute to the noble and learned Lord the slightest intention to misrepresent; but, speaking from no slight

acquaintance with the circumstances, that is what I believe to be the truth of the case. I believe the Bishop of London heard that Her Majesty's Government had been considering, by some general measure, the means of providing for the work of dioceses, the Bishops of which were worn out, and that within a few days a Bill would be laid upon the table of the House; and, being very anxious to help forward any such general measure, he did communicate to Her Majesty's Government, with a distinct view to that general measure, his readiness to retire. I believe, further, that it was stated to him that it might be found necessary, if not convenient, to deal with the case of the Bishops of London and Durham by a separate Bill; but that it would be a supplementary measure falling in with the general state of the law, as far as that general measure affected it. Mark, my Lords, the different position in which that would have placed my right rev. Friend (the Bishop of London). If a general law, affecting all who held spiritual charges, passed, and if an accompanying measure applied the general principle to any particular case, with the limitations which that particular case required, the right rev. Lord (the Bishop of London) would be altogether free in conscience and appearance from conniving at simony by merely consenting to bring their case under the then existing general law of the clergy. My right rev. Friend has not been acquainted with the objections on the ground of simony. I put it upon a hypothetical case. Suppose my right rev. Friend has not heard of this objection. Suppose that, not having it clearly before his mind, he assented because he expected this arrangement would be a proviso to a general act and altogether free from the general charge of simony. Suppose that in his present state of weakness he is unable to read the public journals, and his anxious friends who are watching round him do not dare to tell him this objection to a private Bill—I will suppose there was no positive stipulation that there should be a general measure. Then, I ask, if such a hypothetical case should turn out to be the truth, are you prepared to proceed, and, taking advantage of an offer under very different supposed circumstances, to make the right rev. Lord guilty in the eyes of the great body of the Church of England of a simoniacal transaction, for his own convenience, when my right rev. Friend is altogether free from any charge of the

kind, and it is only from the mode in which he has been treated that he is exposed to it? A great deal was said the other night of the feelings of my right rev. Friend, and how much was due to him, and the noble Earl said, in almost a pathetic way, would the House refuse the petition of the right rev. Prelate to be released in his old age from duties which he found himself unable to perform? I believe that is an entire perversion of the state of the case; that my right rev. Friend made the offer with a view to helping forward a general Act; and that, so far from promoting his wishes by carrying this Bill, your Lordships would promote them most abundantly by refusing in this way to give these particular privileges; because the more attention I give to it the more I come to the conclusion (and a frightful conclusion it is) that this is nothing more than an Act to exempt the Bishop of London from the pains and penalties of committing simony. I believe that is the real effect of the Bill you are passing, and I can only say, knowing the tender and sensitive conscientiousness of my right rev. Friend, that I tremble to think what the effect will be if, at a future time, on recovering some strength, he should find the way in which he has been treated, and that by the substitution of a particular for a general Act he has been made guilty of a scandal to the Church. I dare not estimate what the effect of such a discovery on his mind may be. I ask your Lordships whether you ought to do this—whether you ought not to require that the correspondence should first be in your hands? I think that is the least measure of justice to my right rev. Friend. I claim it of you as a matter of justice to him, that you should not take any representation of his words from a third party, and I say you ought further to do this—you ought to have an assurance that he knows this private Bill is being carried on, the public Bill being dropped. You ought not to take advantage of any letter he may have written in the simplicity and sincerity of his heart, and bind him down to that letter; but Her Majesty's Government ought to state distinctly that he knows it to be an act of simony that you are going to lead him to do. I ask upon what principle you are going? If an assent to a certain thing be obtained from a man, and afterwards the circumstances under which that assent was given are altogether changed, would not a Court of Chancery itself relieve a man who had so bound himself to

The Bishop of Oxford

a bargain under totally different circumstances? It is the plainest equity in the world, and I say your Lordships ought not to proceed with this Bill, based upon a resignation which I in my conscience believe was given by the right rev. Prelate under quite different circumstances from those which the passing of the Bill must produce. I at least pray your Lordships, at the present stage of this Bill, not to dream of going into Committee to settle the details until you know all the facts upon which the present measure is founded.

LORD CAMPBELL: I was, indeed, surprised when I heard my right rev. Friend (the Bishop of Oxford) accuse the Government of having introduced a Bill to legalise a simoniacal proceeding—accuse all your Lordships who had supported the measure now before the House of having voted for a Bill to carry out a simoniacal treaty—and, going further—and accuse five of his brother Prelates with having aided by their votes to ratify a simoniacal treaty. If any layman had stood up and made such a charge against Archbishops and Bishops of the Church—including the Primate of England and the Primate of Ireland—what would my right rev. Friend have done? Why, he would have instantly stood up in that House as the defender of his order, and have indignantly repudiated such a charge. And has it come to this—*et tu Brute?*—Do I hear my right rev. Friend stand up and charge five Members of the episcopacy with one of the most serious offences that could be attributed to any ecclesiastic? A more merciless attack was never made. I will tell my right rev. Friend that his charge is not founded in law or in fact. What is simony, and what does this Bill propose to do? Simony is a certain transaction which the law prohibits. One Act of Parliament can nullify a previous Act as perfectly as if the Act nullified had never been on the Statute-book; and I lay it down most solemnly for law, that an agreement to do this Act conditionally upon the sanction of the Legislature being given is not simony. The condition assented to by both the right rev. Prelates was this—they were content to do what certainly is now against the law of the land, but to do it with the consent of the Legislature. If the Legislature assent to this Act, it will *pro tanto* be the same as if the law had never prohibited it. It is not a private bargain. I should like to see a general law upon the subject. I do see great inconveniences in

bargains *toties quoties* between retiring Bishops and the Government of the day ; but I say that, to call an arrangement which is publicly expressed to be conditional upon the consent of the Legislature being obtained, a simoniacal proceeding is a mere perversion of terms.

THE BISHOP OF OXFORD: My noble and learned Friend has completely misstated my words. I said if this *privilegium* did not pass, the compact which had been entered into, whether made publicly through the public journals, or privately by correspondence, will be simony by the law. I said also there were two ways in which the Act could be relieved from the crime of simony—one by altering the general law, and the other by passing a *privilegium*, a special Act of Parliament, to withhold in these instances the penalties which attach to similar acts done by other persons. What I say is this, if after you pass this Act any rector or vicar does, in the most open manner in the world, and with the most honourable motives in the world, the very same act which you allow the Bishop of London to do, then that rector or vicar will commit simony. Then, I say, this Bill is a *privilegium* to withdraw, in these instances, the penalties of simony from acts which under the general law will still remain illegal and simoniacal. I do not mean to say that legally the two right rev. Prelates would be guilty of simony if you pass this Bill, but the act they do will remain in other cases illegal.

LORD CAMPBELL: I say that if this Bill passes—though by a combination between my right rev. Friend and another party it may not pass—then there will be no simony either legal or moral in this matter.

THE EARL OF CHICHESTER explained the circumstances under which the resignation of the Bishop of London was communicated to him. He had been waited upon by the confidential friend and adviser of the Bishop, Mr. Hodgson, who informed him of the right rev. Prelate's desire, and begged of him to communicate it to the Ecclesiastical Commission. He (the Earl of Chichester) did so, and also immediately communicated it to the noble Lord at the head of the Government. He subsequently had several interviews with Mr. Hodgson and his partner, and took care to inform them, for the information of the Lord Bishop, of what was occurring in respect to the draughting of the

Bill ; and, in order to save time, he (the Earl of Chichester) himself had a Bill prepared, not exactly similar to that now before the House, but the same in principle, in respect to its being a separate measure. A copy of that Bill was given to the Bishop's confidential adviser, and he was authorized to state that the Bishop saw that Bill, and generally approved it. Not a word was said by the Bishop against its being a separate measure, although, no doubt, he thought there should be a general measure, as every one else did.

THE EARL OF SHAFTESBURY: My Lords, I wish to mention one matter, which appears to me to be well worthy of consideration, in reference to this subject—I mean the actual and prospective state of these great dioceses. I would ask of those who object to this Bill, in what way they intend to carry on the ecclesiastical government of this great town—how they intend during the interregnum to dispose of the patronage of the see ? in what way is the correspondence of the see to be carried on, or how are the clergy to be superintended, and generally how is the ecclesiastical government of this diocese to be administered ? The diocese of London stands in a peculiar position, different from all other dioceses, and in which it will not itself stand henceforward. It is one of the unregulated bishoprics, and the consequence is, that all the powers formerly exercised by Bishops are vested in the Bishop of London for the time being ; and I beg your Lordships to consider what those powers are. The Bishop has the administration of vast territorial revenues, amounting to no less than £22,000 per annum. He retains the powers formerly exercised by Bishops, of levying fines, of granting leases, and of disposing of the property of the Church ; he even has the power of anticipating and of making appropriations and assignments beneficial to the receiver, but prejudicial to the Church itself. The right rev. Prelate the Bishop of Exeter spoke the other night of the great convenience of entering upon an interregnum at the present moment, because the great pressure of business to which Bishops are exposed in holding confirmations and consecrations was over, as those ceremonies are not performed in the autumn and winter months. But are those the only duties which a Bishop has to perform ? If they be the only duties, shall we not hear

very soon repeated that which has been so often said about Bishops—that they received large salaries and did nothing? If I find a great supporter of the episcopate—himself a Bishop—saying that during six months a Bishop has nothing to do, I believe he is establishing a stronger argument against the continuance of Bishops than anything which could be urged by the most violent anti-state-church partisan in the country. But is it nothing to have the spiritual charge of more than 2,000,000 people—of a population larger than that of many German duchies, and nearly as large as that of the kingdom of Sardinia? But I must rely on my authority alone. I will read an extract from a letter written by a rev. gentleman, an archdeacon, of great experience, who is far better able than I am to form an opinion as to the consequences which would ensue from the continuance of such an interregnum. It is necessary, I should first explain that it is intended, I believe, to put the diocese into the hands of Commissaries. Writing to me on this subject, my informant says—

“There can be no doubt that it is a great evil for this metropolitan diocese to be without an active head. Commissaries cannot have the same authority and influence; and the Commissaries of this diocese must henceforward labour under the additional disadvantage of exercising not merely a delegated authority, but an authority which, it is notorious, must soon expire. A new Bishop may reverse all their decisions. At the recent annual meeting of —, a rector expressed a general feeling when he stated that, in his arduous position, with a parish containing nearly 200,000 persons, he felt continually and most painfully the want of the full support of episcopal authority.”

This is a sentiment shared, I believe, by all the rectors and vicars of large parishes in the metropolis. But the Bishop of London has many other duties to perform besides consecration and confirmations. The writer of the letter I have quoted says—

“The Bishop of London exercises a customary jurisdiction over all chaplains in foreign parts, or in the colonies and the East Indies, where there is no Anglican Bishop. This is a jurisdiction of a very delicate nature, and of great importance to the credit of this country on the Continent; but having the sanction of the law, it is less easily delegated to a Commissary.”

It will be seen, therefore, that the Bishop of London stands in a very peculiar position. He cannot delegate his full powers to a Commissary, for he has many functions that do not attach to him by law, and which can be exercised only by himself and on his own responsibility. But

The Earl of Shaftesbury

we are also not without the benefit of experience on this question. There have heretofore been interregnums in various sees, and most mischievous consequences have ensued. I will not go into the details of some which took place many years ago; but there is one extremely notorious case of the kind to which I will refer, which occurred during the infirmity of the Bishop of Bath and Wells. Hear what is said of this case by a person who knew well what the facts were:—

“No one knows more practically than the Archbishop of Canterbury—and I wish his Grace was now present to confirm this statement—the jobbing, the confusion, the spiritual destitution which rioted in Bath during the mental incapacity of Bishop Law, and the physical incapacity of Bishop Bagot. The Archbishop might be appealed to with confidence, as able to testify both as to the damage sustained by the temporalities of Bath, and as to the neglect of its spiritual interests.”

Immense evils arose, as Bishop Stanley felt to his cost, through the long incapacity of Bishop Bathurst in the diocese of Norwich, and during the whole of his episcopacy it required all his energies to bring that diocese again into proper order. To show you the labours of the Bishop of London—how impossible it is that commissaries should discharge those duties, and how necessary it is that there should be one living and active superintendence over that great diocese—let me give you some little description of his ordinary duties. I have been reminded of a passage in one of Sydney Smith's letters about the Church, in which it is said that the Bishop of London devotes eight or ten hours a day to the business of his diocese, and gives labour enough to govern the empire. The Bishop has been used to have one day in the week at London House, and in the height of the season, two days on which clergy and laity could consult him. On these days the whole time—from nine o'clock in the morning till five or six o'clock in the afternoon—was occupied in personal interviews and discussions. All these interviews, of such great service in bringing together the Bishop and his clergy and laity, and in making the business of the diocese work smoothly, must be suspended for an indefinite period in the case of an interregnum. And here let me recur to the difficulties and confusion which arose in the diocese of Bath and Wells, because I received this morning a letter from a layman of great experience, a soli-

citor living in that diocese, who was personally cognisant of many of the mischiefs which were occasioned there by the interregnum to which I have alluded. He says—

“The system pursued in this diocese (Bath and Wells) during the interregnum of Bishop Law’s infirmities was to leave the affairs of each arch-deaconry in the hands of the rural deans, generally speaking young and inexperienced clergymen, and between whom and their brethren in the ministry constant differences were arising. Unseemly disputes about the Church patronage became the subjects of general scandal, and, although the Church of England in the populous city of Bath and the county of Somerset had been for a long series of years most popular, its popularity would, I believe, have been well nigh lost had such a state of things continued. I am speaking from my own personal observation, but I do feel solemnly that the case of this diocese is a frightful example of what such a state of things as now exists in the dioceses of London and Durham may come to. And sure I am that no real friend of the Church can desire to see a repetition in the metropolis of England of that which I, in common with others, have mourned over in the diocese of Bath.”

So long as there is one head responsible for the conduct of these affairs they may go on well in London; but when all these facilities for jobbing and misappropriation are given, and there is no responsibility and superintendence on the part of the Bishop, I do gather that the very worst consequences will ensue in the case of any interregnum. My noble Friend the Chairman of Committees (Lord Redesdale)—and anything which falls from him cannot fail to be listened to with great attention—says this state of things has gone on for a very considerable time, and he asks why it might not continue for six months longer? Now, it is very well for certain parties in the State to make use of that argument, but I am astounded that it should be urged in the House of Lords, and by a person of the experience of my noble Friend. If this state of things, my Lords, can go on without mischief for six months, it may go on for six—for sixty years—for an indefinite time—in short, until masses of the people are brought to the conviction that the Bishop of London is a name and not a reality. When, too, I find a right rev. Prelate making use of the same argument—when I hear it urged that the Bishop of Oxford is capable of presiding for the time over the diocese of London—will it not be immediately said that there are evidently too many Bishops by half, and that they might be reduced, without

public detriment, to a very limited number? I may, perhaps, be more sensitive on this subject than many of your Lordships, but I am conversant with the opinions expressed by many classes of the community on this subject, and I know it is said that Bishops have nothing whatever to do, that their incomes are too large, and that their numbers might well be diminished. The language employed in this House, by which it seems to be inferred that the Bishop of Oxford could preside over the diocese of London, and the Bishop of Manchester over that of Durham, and that no great and irreparable mischiefs would ensue in consequence, is language which could hardly be expected from those who have always been urging the necessity of extending the episcopate. It is curious enough that whenever the number of Bishops is to be increased we hear exaggerated statements of their duties (though I am one of those who think that they have many and great duties to perform), while, now that such a Bill as the present comes before your Lordships, I find that the labours of the Bishops are made light of, and we are told they consist mainly of consecrations and confirmations. [“No, no!”] No! Why, did not the Bishop of Exeter say that the time for confirmations and consecrations was now nearly over, and that little or no business of any serious importance remained for the Bishop, as a proof of which he said that the right rev. Prelate had been in the habit of taking his vacation and of disporting himself in foreign parts about this time of the year. I am certain that the country will interpret such language in the sense I have mentioned, and if they see a continuance of this state of things, and one Bishop doing the duty of another Bishop, they will argue that one-half the number would be sufficient. Having pointed out what the prospects of the diocese of London are likely to be should any interregnum of this kind occur, I have only in conclusion to express the hope that your Lordships will give your earnest consideration to the welfare of the immense population of the two dioceses thus deprived of their Bishops, and will pass this Bill, notwithstanding the charge of its being a simoniacal measure.

THE EARL OF DERBY: My Lords, I do not think that my noble Friend has been exceedingly appropriate in his arguments in relation to the matter in hand, because he has in forcible language—

which he, indeed, always uses—asserted that the prolongation of the interregnum in any of those sees is a matter of serious inconvenience and considerable objection. That is a point which, though my noble Friend has laboured much to prove, is one which is admitted upon every side; and the only question to be decided by those who are now discussing this Bill is, whether on the whole we shall not incur the greatest prospective evil by adopting a partial and imperfect measure like the present, which is, I believe, more calculated to impede than to forward subsequent legislation, than by the postponement of the introduction of any Bill on the subject until we have time to deal with the general question, which general measure would materially advance the great object which your Lordships have in view. My noble Friend has, I think, very much exaggerated the effect of the language which fell from the right rev. Prelate the other night. I was present on that occasion, and what the right rev. Prelate did say was, that of all times of the year the inconvenience would be least felt at the present, inasmuch as the active duties—those of confirmation and consecration—are over; and during the remaining portion of the year the Bishops have the less laborious duties to discharge. And I must say that it is a perversion of the obvious meaning of the right rev. Prelate's language to assume that either he or any other noble Lord who has taken part in discussing this question, has maintained that, during the remaining portion of the year the life of a Bishop is an idle one, or that the number of Bishops is greater than is sufficient to perform the duties of that office. For my own part, I frankly say I think that the number of the episcopal bench is not sufficient; but that is not the question now before your Lordships. I am happy to find it acknowledged on both sides of the House that the duties of a Bishop are so important, and that there is so little superfluity of episcopal attendance, it becomes a matter of vital importance that provision should be made for the resignation and retirement of those Bishops who are rendered incapable of the discharge of their duties. I am glad to see that it is so admitted; and the question is by what description of legislation we can best attain that object. The only question raised now is whether we shall go into Committee before we have received the

The Earl of Derby

communications made by the right rev. Prelates to the Government which have led to this mutual understanding. It was my intention to have adverted—and I had risen for that purpose—to the misrepresentation of the noble and learned Lord Chief Justice of what had been said by the right rev. Prelate opposite; but as the right rev. Prelate has himself vindicated his own expressions I do not think it necessary to return to that question. The obvious intent and meaning of the right rev. Prelate being this—that the object of the Bill is to legalise that which, if this Bill did not pass, would be simoniacal, and making that legal in the case of these two Bishops, which, if this Bill passed, would exempt them from the operation of the law in respect to pains and penalties, and if such an act had been performed by other parties would, by the general law of the Church, be considered an act of simony. The acumen of the noble and learned Lord, and his long professional experience, might enable him to turn and twist the argument as he pleased—and no person is more capable of doing so in support of his particular views—but it is impossible, with all his ability, to torture the observations of the right rev. Prelate into any other meaning than this—that the contemplated arrangements made by the retiring Prelates without the sanction of this Bill might be construed into an act of simony. In making these observations I am bound to say I have no doubt whatever that those retiring Prelates have consented to those arrangements with the best and the purest intentions. I should like to ask my noble Friend (the Earl of Shaftesbury) if he feel so strongly the evils and inconveniences arising from the interregnum in the dioceses of London and Durham, why he does not feel with equal force the evils and inconveniences which are sustained in other dioceses—to which I have no hesitation in referring—I mean the archbishopric of York and the diocese of Norwich? He admits the inconveniences of these arrangements, and I agree with him as to the mischief of these *toties quoties* arrangements; and therefore it is that I now, as I did upon a former occasion, press upon your Lordships the expediency of dealing with the whole question by a general measure and not by a measure admitting the principle of negotiation between the Minister of the day and the individual concerned. That is a principle

involved in this question which in my mind is sufficient to outweigh the serious and grave inconveniences which arise from the continued suspension of the functions of these Prelates. The principle is a bad one in itself, and I can see that grave inconveniences may arise from suspicions engendered as to the motives which may lead to the retirement of a Bishop. The particular circumstances of this case enable your Lordships to afford a retirement to these Bishops, and will enable you to carry those arrangements into effect. The consequence would infallibly be, that when there are not such means of providing for such retirement from the superfluities of the incomes attached to the sees, that then it would be necessary to make some further special arrangements to meet the difficulties of the case. And, therefore, if you rest this case upon the peculiar circumstance that you are enabled to do it without endangering the common fund, you will virtually negative the possibility of doing that which you admit to be desirable to have done by a general law applicable to all sees. Before I sit down I wish to ask the Government whether they will consent that the annual sum of money which will be saved by the effect of these arrangements shall be held in abeyance until a general measure be passed to form the nucleus of a surplus fund which shall be applicable to the general retirement of Bishops. If Her Majesty's Government are prepared to give this assurance—if they say they do intend to bring forward a general measure at the earliest possible period of the next Session of Parliament, and that they will reserve by those arrangements a fund to meet the requirements of a general measure, they will then, to a certain extent, remove the very serious objections which I entertain towards this particular measure. I hope Her Majesty's Government will be able to give a definite declaration to this effect, because it would remove one of the greatest objections of those who oppose this measure, namely, that you are by this Bill depriving yourselves of the means of effecting a general measure of retirement hereafter. With regard to the question of your Lordships' going into Committee, I am unwilling to throw any obstacles in the way of Her Majesty's Government at this advanced period of the Session; but I think, before this measure is finally carried through this House, it is important that we should be officially and formally in pos-

session of the previous understanding which has existed, and of the previous correspondence which has existed on this subject. I trust my noble Friend and the right rev. Prelate will not, under such circumstances persist in their opposition to this Bill going into Committee, and that they will permit the Government to make such Amendments in the Bill as they may think necessary, and that Her Majesty's Government will then afford time and opportunity to your Lordships for the consideration of the effects of the measure, both upon the bringing up of the Report and upon the third reading. I have just ventured to throw out these suggestions because I really do not wish in any way to retard the progress of public business.

THE EARL OF SHAFTESBURY wished to explain that he had not intended to represent those who opposed the present Bill, as thinking that a Bishop led a life of idleness. What he intended to say was that, if noble Lords voted for a prolongation of the present state of things in the sees of London and Durham, people out of doors might draw that inference.

THE EARL OF HARROWBY said, it appeared that both sides seemed to agree in theory, but what they wanted to do was to go beyond theory to practice. The argument of his noble Friend opposite was, that if they postponed this Bill, there would be a better chance of passing a general measure in a future Session. That might be the case, but with regard to any surplus that might accrue under the proposed arrangement, the only pledge the Government could give was, that it should not be appropriated to any purpose without the sanction and authority of Parliament.

Motion agreed to.

House in Committee, accordingly.

Clause 1,

THE BISHOP OF OXFORD proposed, as an Amendment, that the pensions under the Bill should not come into operation until the Archbishops had accepted the resignation of the Prelates.

Amendment agreed to.

Clause 2 *agreed to.*

Clause 3,

THE DUKE OF CLEVELAND said, that he had intended to move, that the retiring allowance to the Bishop of Durham should be £6,000 a year, the same as that proposed for the Bishop of London; but, as his right rev. Friend had expressed a wish that such a proposition should not be made to their Lordships, he should aban-

don his intention of bringing the subject forward.

THE EARL OF GALLOWAY felt strongly that £6,000 a year was too large an amount for Parliament to grant to a retiring Christian Bishop. The attention of the public at large had been very much directed of late to our Church Establishment, and a great deal of jealousy existed in the minds of a considerable portion of the community with regard to it. Much of that jealousy had, in his opinion, no foundation in reason; and, upon that account, he was the more desirous that Parliament should not pass any measure which would occasion a just cause of complaint, such as he thought would be created if so large a salary as £6,000 a year were to be granted to a retiring Bishop—a sum larger than the full salary enjoyed by many of the right rev. Prelates who were able to perform the duties of their high office. His main ground of objection to the measure, however, was, that it was not of a general character, for he feared that by now sanctioning so large a retiring allowance as £6,000 a year, their Lordships would create an inconvenient precedent which might greatly hamper them in years to come. He was not prepared with a distinct proposition on the subject, but he thought that one-third of the future salary of £10,000 a year would be an ample allowance for the retiring Bishop of London. In making these observations, he desired to add, that he felt the utmost respect and veneration for the right rev. Prelate, to whom this retiring pension was proposed to be given.

VISCOUNT DUNGANNON said, that he entirely concurred with the noble Earl, in thinking that the retiring allowance in question was not only beyond bounds, but under the circumstances enormous. Independent of the allowance of £6,000 a year, the Bishop of London was to have the palace at Fulham for life; while the Bishop of Durham was to have only £4,500 a year without a residence. The apportionment of the allowances was by no means equal. Considering that the income of the future Bishops of London was to be limited to £10,000 a year, and also that the incomes of the other working Bishops had of late years been materially curtailed through the means of the Ecclesiastical Commission, he conceived that a retiring pension of about £3,000 a year would be amply sufficient for the present Bishop of London. It was not right, in his opinion,

The Duke of Cleveland

to make this retiring pension greater in amount by £1,000 or £1,500 a year than the income allotted to many of the working Bishops. He thoroughly and entirely disliked the present Bill, and regarded it as one of the most mischievous measures ever introduced under a plausible pretext. He looked upon it as the more dangerous, because the case was a strong one, though it was not stronger than were the cases at the present moment of the Archbishopric of York and the Bishopric of Norwich. He was at a loss to understand what material evil could have resulted from the Bill being postponed until an early period in next Session. He wished not to be understood as entertaining the slightest disrespect towards the right rev. Prelate, on whose retiring pension he had commented, as he felt for him the utmost veneration. A more essentially useful and thoroughly worthy Prelate never adorned the episcopal bench, and it was matter of deep regret, in reference to the best interests of the Church, that, by the dispensation of Providence, he should be placed in a position which obliged him to relinquish his see.

LORD WYNFORD observed, that a special justification for the amount of the proposed retiring allowance existed in the fact of the splendid and munificent acts of charity for which the Bishop of London was distinguished.

THE LORD CHANCELLOR also adverted to the Bishop of London's munificent charity, which, he was understood to say, occasioned to that right rev. Prelate the expenditure of about £15,000 a year; and of the proposed retiring allowance of £6,000 a year, there was no doubt that a large proportion would go in charity.

Clause agreed to.

THE BISHOP OF OXFORD gave notice that he should, at a future stage, move the introduction of a clause to the effect, that the sums received from time to time by the Ecclesiastical Commissioners from the revenues of the sees of London and Durham should be carried to a separate account, until Parliament had decided whether any provision should be made for the retirement from their offices of Bishops unable, through age or infirmity, to discharge their duties.

Report of Amendment to be received *To-morrow.*

House adjourned till *To-morrow.*

HOUSE OF COMMONS,

Thursday, July 17, 1856.

MINUTES.] NEW WRIT.—For *Dorchester, v. Henry Gerard Sturt, esq., Chiltern Hundreds.*

PUBLIC BILLS.—2^d Charities; Vice President of Committee of Council on Education; Evidence in Foreign Suits; Cursitor Baron of the Exchequer.

CHARITIES BILL.

Order for Second Reading read.

Motion made and Question proposed, "That the Bill be now read a second time."

MR. MOWBRAY said, he thought some explanation ought to be given by the right hon. Gentleman the Chancellor of the Exchequer for the second reading of the Bill at that late period of the Session. Last year, at a late period of the Session, a Bill was introduced and passed for exempting Roman Catholic charities from the supervision of the Charity Commission, and now at this late period of the Session this Bill was introduced for continuing that exemption. He saw no reason for such exemption, and should therefore move that the Bill be read a second time that day three months. If that should not be adopted, he should move in Committee that the duration of the Bill should be to the 1st of June instead of the 1st of September.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

Question proposed, "That the word 'now' stand part of the Question."

MR. BAINES said, there were a great number of Roman Catholic charities founded by Roman Catholics for the very best purposes, but in many of them there were certain things mixed up which might be construed into superstitious use, and hence the whole by that might be vitiated and rendered void. It was, therefore, thought expedient to exempt such charities from the usual supervision of the Charity Commissioners. For instance, in many of these excellent and most valuable charities there were provisions for certain masses to be said for certain purposes. In examining into such charities, the Commissioners could, if necessary, have to report upon the fact of such charities containing such provisions, and that would of necessity make void the whole of the charity. He, therefore, asked the House to agree to carry on the exemption for another year,

and by next Session a general measure would be introduced, which, he trusted, would meet the whole necessities of the case. He could assure the House that he was as much averse to the present state of things as any one, and he would pledge himself before next Session to do all in his power to advance the general remedy that was required. Under those circumstances, he therefore hoped the hon. Gentleman would withdraw his Amendment.

MR. HADFIELD said, he thought there was that in these charities which required the proposed exemption to be extended or provided for in this Bill. He thought the general law of mortmain ought to be revised as speedily as possible; for all sects, the Established Church as much as any, suffered from it. He gave his cordial support to this measure. It was greatly to be regretted, that so many of the Bills brought in by the Government were postponed to that late period of the Session.

MR. BARROW said, he understood that it was not intended that the Charity Commissioners were to have any power over county hospitals and county asylums which were supported by voluntary contributions. But he found that some of those institutions had been called upon by the Commissioners to furnish copies of their accounts. Now, that proceeding had given great offence to the trustees of those charities, and he hoped the right hon. Gentleman (Mr. Baines) would except from his measure institutions that were solely maintained by the voluntary contributions of the public.

MR. SPOONER said, he was quite satisfied with the assurance given by the right hon. Gentleman, that he would be prepared next Session to place Roman Catholic charities under the same control as other charities were subjected to.

MR. HENLEY said, he was surprised that this Continuance Bill should have been brought forward. There was a most distinct pledge given by the Government, when the Charity Bill was passed, that if the House consented at that time not to deal with Roman Catholic charities, a Bill would be brought in upon that subject. He need not say that he did not believe any one of the proper and legitimate objects of those charities would be interfered with. He thought a distinct and positive pledge ought to be given by the Government, that the subject should be legislated upon early in the next Session.

SIR GEORGE GREY said, he was glad

to find that no observations had been made calculated to prejudice the question before the House. The case of Roman Catholic charities was one of a special description, and could not be dealt with without full consideration being given to all the special circumstances connected with it. It was hoped that the Bill formerly introduced by the hon. and learned Member for Durham (Mr. Atherton) which passed the House of Commons, would have removed many of the difficulties connected with the Roman Catholic charities; but, unfortunately, that Bill did not meet with the assent of the House of Lords. He hoped the House would be content with the pledge given by his right hon. Friend (Mr. Baines), that the subject should receive his attention at an early period next Session.

SIR HENRY WILLOUGHBY said, he hoped the Government would insert a clause in the Bill to exempt county asylums and hospitals from the control of the Commissioners. He quite agreed with the hon. Member (Mr. Hadfield) that legislation, at a very late period of the Session, became a perfect lottery. He thought it would be better if Government struck out of the list of the Orders of the Day every Bill they did not intend to proceed with.

THE SOLICITOR GENERAL said, it would very much surprise him to find that any interference had been attempted with any institution supported wholly by voluntary contributions. He thought it would be found that the application to the Nottinghamshire charities had been for accounts relating to their income arising from endowments. With respect to the question of introducing measures early in the Session as had been alluded to in the course of the discussion, he had himself brought in measures of great public importance as early as the end of February, but he had been wholly unable to find an opportunity of again bringing them on, and he had in consequence been compelled to withdraw them. Indeed, until some division was made between what might be called the legislative and the political business of the House, it would be hopeless to expect that measures of legislative importance would not often be postponed to matters of more pressing political interest.

MR. MOWBRAY said, after the assurance of the right hon. Gentleman (Mr. Baines), that he would introduce a Bill on the subject next Session, he would withdraw his Amendment. But not feeling quite so satisfied of the disposition of the

Government on the subject, he should in Committee move that the Bill be extended only to the 1st of July, instead of, as proposed, the 1st of September.

Amendment, by leave, *withdrawn*.

Main Question put, and *agreed to*.

Bill read 2^o.

HOSPITALS (DUBLIN) BILL.

Order for Committee read.

Motion made and Question proposed, "that Mr. Speaker do now leave the chair."

MR. COWAN said, it was his intention to move, that the Bill be committed that day three months. It was from no want of sympathy for the inmates of the Dublin hospitals that he took that course. It was at once the glory and one of the most precious and palpable evidences of our common Christianity that such institutions existed, and he should greatly regret if the step he now took should, in the slightest degree, impair the usefulness of those charities, or close the portals of those hospitals against the admission of any one who required their aid. But he thought the course of the present and former Governments in respect to these hospitals to have been unwise and vacillating, and neither fair nor honest. He did not see why Dublin should enjoy a privilege which other large cities and towns did not enjoy. Edinburgh, for instance, was distinguished for its medical schools, and was as much entitled, in his belief, to receive a grant from the public fund as the Irish capital. He was informed by Sir William Gibson Craig, that the grants which had been made to the Irish hospitals would in a few years cease and determine. In 1844, a resolution was come to by the Government, that the grants should be reduced 10 per cent every year, and the hospitals be left to be supported by the subscriptions of the charitable and humane. That was acted upon for some time; but on the Motion of the hon. Member for Dublin, a Committee on the subject was appointed, and the present Bill was the result of the Report of that Committee. The tendency of the Bill was to place those hospitals permanently as a charge upon the Consolidated Fund. If the House continued these grants to Dublin, he saw no reason why they should not be extended to Edinburgh, and, if to Edinburgh, to Glasgow, Liverpool, and other great towns. He found that the Commissioners had laid it down as a rule that no grant should be given to an hospital unless

Sir George Grey

it was also a medical school. He wished to know if the converse was also to be a rule, and every medical school to be entitled to these grants. No doubt a great proportion of the poverty of Scotland arose from immigration from the sister isle; and as Scotch hospitals were freely used by Irish paupers, he thought that was an additional reason why Dublin should not exclusively have the benefit of the public money. The Bill was useful so far as it proposed to deal with admitted abuses in the management of the Dublin hospitals, but he objected to its local operation and character. He hoped, however, that the whole matter would be set at rest by the Government retracing their steps and dealing equal justice to all.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

MR. HORSMAN said, he hoped the House would not allow itself to be led into a discussion on a question which was not before it. The question they had then to decide, was not whether any grant should be made to the hospitals of Dublin, or whether that grant should be permanent. Those two questions had been already decided upon by a Resolution of a Committee and a Vote of that House. What the House then had to do was, to carry into effect the object of Parliament in making that grant. A Commission issued last year had reported the manner in which these grants of money had been hitherto applied. For many years these grants had been annually voted. In 1854, the subject of the grants was submitted to a Committee of inquiry, and which Committee recommended the continuance of them. The question which Government had then to consider was, whether those grants were wisely and well applied. With a view to ascertain that fact, a Commission was appointed to inquire into the condition and regulations of the medical institutions of the city of Dublin; and the present Bill was founded on the recommendations of that Commission. The Bill was not a Bill for granting money to those institutions, but was for the better regulation of the hospitals in Dublin. If Parliament should, next Session, refuse this grant, then the interference of Government would cease, but so long as the grants were continued, no one could deny that the Government

had a right to provide for the better regulation of the hospitals. Under those circumstances, he hoped the House would allow the Bill to go into Committee.

MR. W. WILLIAMS said, the object of the Bill was plain and unmistakeable; it was to fix the maintenance of those hospitals on the public taxes. It was an insult to the subscribers to those hospitals to suppose that they could not properly manage and conduct them. If the power of appointing the governors and officers of those charities were vested in the hands of the Lord Lieutenant, he would make use of that patronage for political jobbery. No other part of the Kingdom would come to that House and ask for charity out of the public taxes to support their institutions. He was surprised that the pride and national feeling of the people of Dublin allowed them to accept such charity. The result of the passing of the Bill would be that the maintenance of the institutions would be saddled on the public taxes.

COLONEL FRENCH said, he must remind the hon. Member for Edinburgh (Mr. Cowan) that grants had been made for the promotion of works in Scotland as well as in England. He might mention the Caledonian Canal as an instance. Therefore it could not be urged as a special ground of objection that this grant was exclusively for the benefit of Ireland, seeing that similar grants had been made for works in other parts of the United Kingdom.

MR. MICHELL said, he thought that it was the duty of the Government to extend hospitals all over the country. He should certainly support the Government in the measure under consideration. The opposition to the grant, he considered, was disgraceful in those who exhibited it. The grant was only of £15,000, and yet they made no objection to the expense of going to Aldershot to reviews, and for sending rockets into the air to please the Londoners. The expense in the course of the year for reviews and fireworks, and eating and drinking of the Houses of Parliament, in going to reviews at Aldershot, and for paying for railway fares to Portsmouth and Southampton, could not have been less than £100,000. No objection was made to dip into the public purse for those purposes, but when a sum of £15,000 was proposed for charitable purposes in Ireland, objections were immediately raised.

MR. HADFIELD said, he could not

understand why the city of Dublin should be paid a sum of £15,000 a year to support its charitable institutions. The question was whether the charge was to be permanently settled upon the country. The right hon. Gentleman the Secretary for Ireland had said that the object of the Bill was to guard against abuses; but his belief was that it was really to make it the means of ultimately imposing this charge upon the Consolidated Fund. He thought that the Irish Members, for the honour of their country, should put an end to these applications for charity, which were only to support abuses in Ireland.

MR. NAPIER said, that hon. Gentlemen were going away from the real object of the Bill. It was not whether a grant should be made, for that had already been agreed to. It was to make a great medical school as efficient as possible. The hospitals had produced many eminent medical men for the army, navy, and general service of the country. But those hospitals could not be kept up by means of their ordinary resources. It, therefore, became necessary to make a grant, and the object of the Bill was to regulate the application of that grant.

MR. CRAUFURD said, that the objection which he entertained to the Bill was, that it was intended to confer upon the hospitals of Dublin a Parliamentary title to an annual grant out of the Consolidated Fund, which no other similar institution asked for. None of the London hospitals received any public grant.

MR. VANCE said, there was nothing in the Report of the Commissioners which impugned the administration of those grants. Those grants were originally made by the Irish Parliament. The grants were also made by the British Parliament for twenty years after the Union, under the impression that the Union would produce great prosperity, and in twenty years render the grants unnecessary. Such, however, was not the effect of it. The Union had removed the nobility and the wealthy commoners, and Dublin, from being the city of the rich, had become the city of the poor. For that reason he maintained that Dublin had a prescriptive right to those grants.

MR. ALEXANDER HASTIE said, that the argument of the right hon. Secretary for Ireland was very ingenious. It was true there was not one word in the Bill having reference to money, and yet the fact was that the whole case turned

Mr. Hadfield

upon and had reference to a pecuniary grant. These grants were most unpopular with his constituents. The hospital at Glasgow was quite as extensive and efficient as the one in Dublin, yet that received no Parliamentary grant.

MR. WILSON said that, although he agreed with the recommendation of the first Committee on this subject, that the grant to these hospitals should be gradually reduced, and, although he was opposed to the appointment of the second Commission, yet since that Commission had recommended the continuance of the grant, he considered it the duty of the Government to give effect to that recommendation.

Question put, "That the words proposed to be left out stand part of the Question."

The House divided:—Ayes 53; Noes 22: Majority 31.

House in Committee.

Clauses 1 to 8 agreed to.

Clause 9 (Lord Lieutenant may grant Superannuations to the Officers of the Hospitals).

MR. W. BROWN said, he should move that the clause be omitted.

THE CHANCELLOR OF THE EXCHEQUER said, that the circumstances relating to these officers were different from ordinary cases, and he must support the clause as it stood.

SIR JAMES ANDERSON said, he considered that granting pensions to officers who were no longer able to discharge their duties was introducing a new principle into those institutions, for which he did not see any necessity.

MR. MONTAGU CHAMBERS said, he also objected to the clause. Men were glad to obtain the reputation of having passed their days at the public hospitals, without asking for a pension.

MR. HORSMAN said, that the subject had undergone great consideration, and that these superannuation allowances had been more than once recommended to the House.

SIR DENHAM NORREYS said, he objected to the principle of allowing the governors of hospitals to diminish the funds by granting superannuations.

Question put, "That the Clause stand part of the Bill."

The Committee divided:—Ayes 43; Noes 29: Majority 14.

Clause agreed to.

Clauses 10 to 13 were also agreed to.

Clause 14 (Lord Lieutenant may appoint a Secretary to the Board).

MR. HORSMAN said, he should move that the salary be £300 a year.

MR. SEYMOUR FITZGERALD said, the amount was excessive, and he should move that the salary be only £150 a year.

Question put, "That the blank be filled with the word 'three.'"

The Committee *divided*:—Ayes 26; Noes 51: Majority 25.

MR. HORSMAN said, it was impossible that any medical gentleman could be prevailed upon to accept the office of secretary at so small a sum as £150 a year. He hoped the hon. and learned Gentleman would be satisfied with the result of the division which had just taken place, and let the question stand over for consideration.

MR. G. A. HAMILTON said, the question was whether it was desirable that the secretary should be a medical man. There were on the staff of these institutions some of the most eminent medical men of the country, who bestowed vast time on the management of the institutions, and therefore it did not so much require that the person who performed the duties of secretary should be a medical man. He believed there would be no difficulty in obtaining an efficient person at a salary of £200 a year.

MR. VANCE said, he had heard of men who were perfectly competent to discharge the required duties, and who would readily accept the office at a salary of £150 a year.

The Motion was then put and *agreed to*, and the blank was filled up with £150.

Remaining Clauses *agreed to*.

House resumed.

Bill *reported*, as amended.

GENERAL BEATSON.

MR. ROEBUCK said, by some mistake a Motion of his had been put on the paper for that night instead of for Tuesday next. It was as follows:—

"That the Under Secretary for War having admitted that, upon anonymous information, a secret inquiry had been ordered into the conduct of a general officer, this House feels itself bound to express its reprobation of such a proceeding."

MR. FREDERICK PEEL said, he wished to offer some explanation on the subject.

MR. ROEBUCK: Had you not better defer it until I have made the Motion?

MR. FREDERICK PEEL: No; it is pressing. As regards the conduct of General Vivian—

MR. ROEBUCK: Sir, I rise to order. How can I answer the statement of the hon. Gentleman when there is no Motion before the House?

MR. SPEAKER: The hon. Gentleman can only make his explanation under the indulgence of the House.

MR. FREDERICK PEEL: The point, Sir, is simply this. Certain charges have been made against General Beatson in connexion with transferring the command of the Turkish Contingent, and they came to the knowledge of the War Office through—

MR. G. A. HAMILTON said, the hon. Member was clearly out of order.

MR. LABOUCHERE: My hon. Friend simply intends to offer a personal explanation.

COLONEL FRENCH: I rise to order, Sir. This discussion is quite irregular, and ought not to be continued.

MR. FREDERICK PEEL: I only wish to say—

MR. ROEBUCK—Order, order. Sir, I insist the hon. Member is quite out of order.

MR. SPEAKER ruled that the hon. Member was out of order, and the matter dropped.

DECIMAL COINAGE—QUESTION.

MR. G. A. HAMILTON said, he would beg to ask the Chancellor of the Exchequer when it was likely that the Report of the Commissioners on the Decimal Coinage question would be presented?

THE CHANCELLOR OF THE EXCHEQUER said, the Commissioners had taken various steps for the purpose of obtaining information on the subject referred to them, but they would not be in a position to make a Report in sufficient time to admit of its being laid on the table during the course of the present Session.

CIVIL SERVICE VACANCIES—QUESTION.

MR. G. A. HAMILTON said, he wished also to ask the Chancellor of the Exchequer, in order to extend the principle of competitive examination for civil offices, what means it was intended to take to make known to the public the vacancies which from time to time might arise in the several public departments, or the steps which it might be requisite to be taken by candidates, in order to their selection by

the heads of departments, for competitive examination?

THE CHANCELLOR OF THE EXCHEQUER said, he was not able to state what means in particular would be adopted for circulating the information referred to. Inquiries might be addressed to the heads of the departments in which vacancies occurred; but he was not aware that there was any necessity to take additional means for spreading information, for whenever a vacancy did occur the Government were instantly overwhelmed with applications for it.

CAPITAL PUNISHMENT IN THE COLONIES—QUESTION.

MR. W. EWART said, he would beg to ask the Secretary of State for the Colonies whether measures would be adopted for further mitigating the laws imposing capital punishment in the Colonies, in conformity with the laws imposing capital punishment in Great Britain?

MR. LABOUCHERE said, it was quite true that, although generally the law of capital punishment in the Colonies differed little in practice from that which was established in this country, yet there were exceptions to the rule—in Ceylon, for instance, where the old Roman and Dutch law prevailed; some of the West India islands, where there were many obsolete laws yet in force; and in the Australian colonies, where capital punishments had very recently been carried out in cases of aggravated burglary. In the case of Ceylon and the West India Islands he was quite ready to consider whether it might not be advisable to remove those laws from the Statute-book, but the Australian colonies had their own local Legislatures, which were the best judges of the cases in which capital punishment ought to be carried out.

THE CAPE OF GOOD HOPE—QUESTION.

MR. CHEETHAM said, he wished to inquire whether the Government were in possession of any later intelligence from the Cape of Good Hope on the subject of the hostile attitude of the Kafirs.

MR. HINDLEY said, he would also beg to inquire whether the colony or the mother country would bear the expense of any military proceedings necessary to suppress an outbreak?

MR. LABOUCHERE said, that the latest information which he had received from the Governor of the Cape of Good

Hope, dated, he believed, the 1st of May, was, that although there had been great apprehensions of the existence of a widespread confederacy among the native tribes to attack the colonists, yet up to that date no actual aggression had taken place, and he entertained the confident expectation that no such act would occur. Nevertheless, the Government had, as a matter of precaution, ordered considerable reinforcements to the Cape of Good Hope. The expense of sending those military reinforcements would be borne by the mother country.

PUBLIC BUSINESS—QUESTION.

MR. HADFIELD said, he must again advert to the large amount of public business on the paper at that late period of the Session, he would beg to ask the noble Lord at the head of the Government whether he could state which Bills would be proceeded with, and which abandoned. There were four Bills with regard to which he was particularly anxious to learn that information, they were the Vice President of Committee of Council on Education Bill, the new Appropriation of Trust Property Bill, the Divorce and Matrimonial Causes Bill, and the Lords Amendments to the Cambridge University Bill.

VISCOUNT PALMERSTON said, that the hon. Member appeared to wish for a catalogue of massacre, but execution had been done upon the innocents, one by one, so completely that little remained to be told. The intention of the Government with regard to each Bill would be stated as it came on. With regard to the Bills to which the hon. Member had particularly referred, he might state that the Vice President of the Council on Education Bill would certainly be proceeded with; as to the Criminal Appropriation of Trust Property Bill his hon. and learned Friend the Attorney General would on the following day state his intentions; the Lords Amendments to the Cambridge University Bill would be considered to-morrow. The Divorce and Matrimonial Causes Bill was a most important measure, involving questions of great magnitude, upon which very considerable difference of opinion might exist, and as many persons had left town he did not think it would be desirable to press the House to come to a decision upon it. It was the intention of the Government to introduce a Bill upon the subject into that House at the beginning of the next Session. It was unnecessary to say

Mr. G. A. Hamilton

what changes might, upon consideration, be made in the measure; but the Government certainly would not include in their Bill the 24th clause of the present one, which prohibited marriage between the parties convicted of adultery. Doing full justice to the motives of those who introduced that clause, he was of opinion that that would be not only a cruel but an immoral provision.

BIENNIAL GRANT TO THE SCOTCH EPISCOPAL CHURCH—QUESTION.

MR. GORDON said, he wished to ask the hon. Gentleman the Secretary of the Treasury if he would have any objection to state that the Biennial Grant to the Episcopal Church of Scotland was not withdrawn because it had been misapplied. Such an impression had obtained some prevalence in Scotland.

MR. WILSON said, that the Government had no reason to believe that the grant had been applied to any but the purpose for which it was intended. It had never been placed upon the Votes, but had been made upon the responsibility of the Government, and defrayed out of the Vote for civil contingencies for the ensuing year. It had become the duty of the Government to consider whether they should withdraw the grant, or should place it regularly upon the Votes; and they had adopted the former course.

CORRUPT PRACTICES PREVENTION BILL.

Order for Committee read.

Motion made and Question proposed, "That Mr. Speaker do now leave the Chair."

MR. H. BERKELEY said, he rose to move that the Committee should be deferred for three months. He should have opposed the Bill upon its second reading; but, owing to the extraordinary manner in which, at this period of the Session, Bills jumped through stages, and perhaps, also, to the studied want of articulation on the part of some Members of the Government, he had failed to seize the proper moment for doing so. He trusted that the House would not forget that this Bill, which was the Act of 1854 *redivivus*, was first introduced immediately after a general election, during which both the great parties in that House had used every means and appliance to obtain a majority. The consequence was, John Bull and his family had been, as usual, coaxed, cajoled, bought,

sold, bullied, intimidated, and screwed. The present Bill had been brought forward as a substitute for the proposition which he and the 224 lunatics in that House who did him the honour to agree with him in opinion regarded as an efficient remedy for a most deplorable and dishonourable state of things. But it had proved a most inadequate substitute, and he still adhered to the opinion that the true remedy was to be found in the Motion which he had repeatedly submitted to the consideration of the House. That Motion had been received in some quarters with ridicule, and it had been said that it came round regularly every year with green peas. From others it had experienced still more unworthy treatment, and the noble Lord at the head of the Government had endeavoured to put it down by pooh-poohing it in that easy, jovial, and offhand style for which he was so celebrated. However, he (Mr. H. Berkeley) would not trespass on the attention of the House with any further allusions to his Motion. He would endeavour that evening to avoid the question of the ballot. He had nothing whatever to do with it; his concern was with the Bill that had been substituted for it. As regarded that Bill what course had been taken? When it was found that the state of the country was so bad that something must be done the usual safety valve was opened—a Select Committee of that House. It was agreed that the corrupt affairs of the country should be submitted to a Committee. That Committee sent down a Bill which was laid upon the table of the House, and, after it had been cut and mutilated and shorn of all its valuable attributes, it was transmitted in a completely emasculated condition to the House of Lords. There it was received with vast approbation, for their aristocratic neighbours appeared to take delight in adopting measures which, while they pretended to do a great deal, in fact did nothing. Just such a measure was the one in question, for, while it affected to promote reform, it was in reality conservative of corruption. That was a proposition which he hoped to demonstrate to the satisfaction of the House. The Bill passed rapidly through the Upper House, and receiving the Royal Assent became the law of the land. It was then noticed by that great member of the press, *The Times*. In the columns of that journal there appeared a very able analysis of the Bill, said to be from the pen of an eminent Parliamentary casuist.

The Editor of *The Times* pronounced the Bill to be a "pompous profession;" intended to be inoperative. In that *dictum* there was a serious accusation against that House—an accusation of hypocrisy, which he, who had the honour to be a Member, would not presume to iterate. With reference, however, to the Bill itself, he would take leave to say that, having been tested throughout the country, it was found to be "inoperative." That it was a "pompous profession" no hon. Member would venture to deny. Its avowed object was to prevent bribery and undue influence, and the preamble set forth that it was intended to promote the freedom of election. That was on the face of it a "pompous profession;" and, if it could be also shown that the Bill was "inoperative," there would be ample justification for the course he was about to take in imploring the House not to stultify itself by perpetuating such a statute. He had before him a list of boroughs in which elections had taken place since the passing of the Corrupt Practices Prevention Act, and as regarded those boroughs the press had been almost unanimous in stating that the Act had been quite inefficacious to correct the grievances complained of. This being so, the First Minister of the Crown would have done well to attend to the representations both of the press and of the persons who had petitioned that House, and to refer the Bill to a Select Committee, instead of contenting himself with simply moving that the Bill be read a Second time. The following summary, the accuracy of which might be relied on, would show how utterly useless for all practical purposes the Act had proved:—

Abingdon: Electors did not vote more independently than before. Screw used, especially where there were debts. Many who had promised to vote one way voted the other. The new Act useless. Bedford: Bribery suspected to have been practised to a great extent. The screw used more than ever. New Act a failure. Barnstaple: The Act had no effect whatever in enabling men to vote more independently. Frome: The screw strong as ever, the signs of bribery as apparent. Dinners given, and travelling expenses paid. Workpeople publicly told they might vote as they pleased, but privately had such intimations given to them as showed them that they would be turned off if they did. Many tradesmen voted against their party, their convictions, their friends.

Mr. H. Berkeley

Exclusive dealing after the election practised by non-electors to a great extent. Maldon: The constituency in no way changed. From the poll it was evident that the screw had been put on with effect. The Act laughed at. Norwich: No difference as to voting of dependents. The Act, as far as intimidation is concerned, waste paper. Portsmouth: Government screw too potent to be resisted. Sunderland: Bribery strongly suspected. Screw decidedly used. Wigan: Screw used as much as ever, unquestionably. The outward signs of bribery apparent. The Act not thought of. Bath: Sixteen cases of intimidation asserted by the candidates. Application for loans as a condition of voting. The Act waste paper. Wells: Bribery, treating, and the screw. The *Standard* and *Globe* had drawn faithful pictures of this borough, the latter stating that the Act was not of the slightest use. Both papers could be completely confirmed. Boston: The notoriety of this place for profligate corruption has no way diminished. Colonel Sleight, a late candidate, ready to verify on oath the statement of the papers in this respect. Leominster: The Act had no effect at all. The screw extensively applied. Many persons deterred from voting for fear of offending their employers. Rochester: In the same condition as ever, and loudly calling for the ballot. Such was the unfortunate condition of the boroughs which had had the "benefit" of the Act which the House was now called upon to renew. It was curious to observe with what perverse ingenuity care had been taken to destroy any clause of the Act which seemed likely to work well. The payment of electors' travelling expenses, for instance, was objected to by the Act, and very properly so. Such payments were not only a fertile source of bribery in all places, but in counties they placed the poorer candidate in a less advantageous position than his rich rival. The Judges of the Court of Exchequer had decided, however, that under the Act the travelling expenses might be paid, provided that it could not be proved that the candidate made, or that the elector accepted, the payment with a corrupt intention. Who was to prove the corrupt intention? It was a farce to legislate in that way. What election agent was likely, with this Bill before him, to tell a man, "I shall pay you this sum more than your expenses, and you must go down and vote

for Mr. So-and-So?" Why, the agent might send the voter down, and then somebody else might pay him; so that, when they talked of proving a corrupt intent, he recurred to the *dictum* of *The Times*, and said it was "a pompous profession, meant to be inoperative." Another provision of the Bill required each candidate, before his nomination, to give to the election auditor, in writing, the names of the agents who alone should have authority to expend money on his behalf, and afterwards to render to the same officer an account of all payments made by them. Thus the old law touching agency was set aside, and, although they might make acknowledged agents answerable, fifty unacknowledged agents might do the work, without any of their acts, however flagrant, affecting the candidate's seat. This so-called improvement of the old law offered direct facilities for bribery. Having carefully guarded the candidate by naming his agents, a body of unacknowledged agents might be let loose, and then anybody from the Carlton or the Reform Club—any man from the moon—might descend upon any borough, as in the case of Aylesbury and Carlisle, and, taking up his station at some hotel, lavish money on behalf of any candidate, and yet that candidate, if returned, would be quite safe in his seat. Instead, therefore, of preventing corruption, this Bill only opened a wider door to it, and was nothing but a false pretence. Such, then, were the sins of commission in this measure; but its sins of omission were quite as flagrant. All who were conversant with the proceedings of the Election Committees well knew that the granting of loans to electors was a mode of purchasing their votes. This was proved before the Rye Committee to have been a fruitful source of bribery in that borough. Yet not one word in this Bill was pointed against that practice. So much as to bribery and corruption, neither of which was touched by this measure. A much more serious part of the question related to intimidation—the great disease of our electoral system. By intimidation the landlord controlled the tenant, the customer controlled the tradesman, the manufacturer controlled the operative, and so on through every grade of society—the great body of the electors being reduced by this engine to the level of political serfs. How, then, did the Bill deal with this widely ramified and inveterate evil?

The 5th clause was supposed to supply a sufficient check for it. The mode, however, by which this was to be done, even if it could be carried into effect, which it could not, was unconstitutional. It violated the rights of property, and consequently also the liberty of the subject. How could an Act of Parliament be defended which pretended to coerce a landlord in the choice of his tenant, and to dictate to a customer what tradesman he should employ? Could they maintain a law imposing penalties to keep a tenant in his holding, and continue to a tradesman his custom? The very attempt to do such a thing was an absurdity. He would not leave the enforcement of this important point to his own feeble advocacy, but beg the House to listen to the opinions of two of the highest authorities, Mr. Macaulay and the late Sir Robert Peel. In an address to the electors of Edinburgh Mr. Macaulay, after arguing that corruption might be reached, and citing instances where men had been imprisoned and fined £500, wound up this portion of the subject thus:—

"You can trace out and punish a man for corruption, or deprive him of all the advantages he has gained by it, but in cases of intimidation the evil cannot be corrected by penal laws. You cannot put them in force without affecting the sacred rights of property. Can I tell a man that he must deal with such and such a tradesman who has voted against him, or that he shall renew a lease to a tenant who has done the same? If I did that, it would destroy the sacred rights of property. What is it the Jew says in the play?"

'I'll not answer that:

But, say, it is my humour.'

Or, as a Christian of my own time expressed himself, 'I have a right to do what I like with my own.' There is a great deal of weight in the reasoning of Shylock and the Duke of Newcastle—'I have a right to do what I like with my own.' If you tell a landlord that he is not to eject a particular tenant, you might as well tell a man that he must employ a particular butcher, and take as much beef from him this year as last. The principle of the rights of property is, that a man is not only to be allowed to dispose of his wealth according to common sense and in an ordinary way, but that he shall be allowed to indulge his whims and caprices, to employ whatever tradesmen and labourers he pleases, and rent, or refuse to rent, his land to tenants according to his own pleasure, however absurd the principle on which he chose to let it to them. The first evening I had a seat in the House of Commons Mr. Poulett Thomson made a Motion for Parliamentary censure on the Duke of Newcastle, in reference to the borough of Newark. Sir Robert Peel opposed the Motion, with his accustomed ability, and with really forcible and unanswerable reasons. He asked if it was meant

to be held that the tenant who voted against the landlord was to be kept in his place by penal laws because of his vote? If so, the tenant who wished to keep possession of his tack had only to vote against the landlord, and receive protection from the law. Such is the argument against penal laws in relation to the rights of property. Were they enacted, it would be impossible to tell what the consequences would be, and, therefore, we are obliged to consider whether there is any other means of prevention. The only mode of putting down the practice of intimidation appears to be vote by ballot."

The last sentence that he had read was not necessary to his present argument, but he had quoted it because it was word for word the same language as was used by Daniel Defoe. So much for the principle of the £50 penalty contained in the fifth clause of this Bill. Landlords did not tell their tenants, neither did customers tell their tradesmen, that they were discharged because of their votes. Yet, undoubtedly, tenants and tradesmen were frequently so discharged; and no clause like this, however ingeniously worded, could remedy the evil against which it professed to be directed. He could not describe the virtues of this Bill more forcibly than by adopting the language of an eminent political casuist who wrote in *The Times*, and upon whose analysis of the measure the editor of *The Times* pronounced that the Bill was a mockery, meant to be inoperative. He need not quote the analysis of the measure, but the writer said in conclusion:—

"Now, what will be the effect of this new Bill? Direct bribery and the direct use of undue influence will be more difficult and dangerous, but will not be suppressed; greater circumspection and care with whom done will be required; but indirect and circuitous bribery, by payment for fancied services and by feigned ways and means, notices to tenants to quit without reasons assigned, and secret influence, will not be, in the slightest degree affected thereby. A penalty is imposed on a candidate who shall give, be accessory to giving, or shall pay for, any treating; but the penalty attaches only to a candidate. A stranger, a friend, or a body of people may give meat, drink, and entertainment to any extent; the voter corruptly receiving it will lose his vote. But, by the insertion of that word 'corruptly,' the intention is referred to the committee, who will have to decide in each case whether a voter accepted it corruptly or not. By the section prohibiting the giving, or causing to be given, to any voter on the days of nomination or polling, of any refreshment or refreshment ticket, the giving is limited to those two days, and the voter is made the only person to whom it is not lawful to give refreshment; so that on any other day such tickets may be given to a voter, and to any but a voter on those days. The payment of any money for chairing, bands of music, flags, or

Mr. H. Berkeley

banners is declared illegal, but no penalty is attached; and this enactment will be inoperative. The providing of cockades and ribands being made illegal, will probably put a stop to that practice, as the riband or cockade-seller, who provides them, will be liable to the penalty. By the Standing Orders of the House of Commons, no election can be questioned later than fourteen days after the assembling of Parliament, or, during the Session, than fourteen days after the return is in the Crown Office. Yet the election auditor is not to have the bills of expenditure until three months after the day the return is declared; so that the effect of this will be effectually to prevent any charge being made against the Member, which if the bills were sooner sent in might have been the case, and the publication of an abstract of the Bill becomes a mere gratification of idle curiosity without benefit to any one but the proprietor of the newspaper in which it is advertised. The notification by the candidate to the election auditor in writing, of his agent or agents, who alone shall have authority to expend money or incur expenses on behalf of the candidate, is the most cunning device to shield the candidate and cover corruption ever propounded. A B and C D are appointed agents; their acts alone bind or affect the candidate; but the whole fry of corruption agents in every borough will work for the benefit of the candidate, who has secured himself from the penalty attaching to their acts by artful disclaimer and the immunity afforded by this enactment. The candidate is legally answerable only for the acts of A B and C D; they sanction nothing, but they know what will be done, and their ignorance is an ignorance which candidates and agents alike know well how to assume and to preserve. Such are the provisions, and such will be the effect of the new Bill for consolidation and amendment of the laws relating to bribery, treating, and undue influence. The consolidation is perfect, the amendment imperfect; but how could it be otherwise? After the Bill came from the Select Committee every attempt in the House of Commons was made to damage it and to neutralise its enactments. When Members of Parliament decline to make a declaration, 'that they have not knowingly heretofore made any illegal payments, and that they will not knowingly hereafter make any illegal payments on account of being elected to Parliament,' and strike such declaration out of the Act, they may call the Act by any name they please; but all the world knows what they intend it to prove."

He (Mr. Berkeley) asked the House to pause before they committed themselves to this measure. He submitted that he had torn the Bill to rags, and he thought it would puzzle any hon. Gentleman who supported the measure to put the tatters together. There might be good points in the Bill, but that must be a wretched measure indeed in which a decent clause could not be found. The Bill was nothing less than a snare and a delusion to the people, and mockery to legislation, and an insult to common sense. Some hon. Gentlemen

had told him that it would be an advantage to get rid of bands of music, banners, and cockades. He was prepared to admit that it would be an advantage, but he remembered that a Bill to prevent the use of bands, banners, and cockades, was brought into that House some time ago by his hon. Friend the Member for Cirencester (Mr. Mullings), in conjunction with an hon. and gallant relative of his own, the Member for Cheltenham, now no more. That Bill contained clauses with reference to bands and banners, similar to those included in the present measure, but it was unceremoniously kicked out of the House; and why? The Bill to which he referred passed through several stages; but at that time the right hon. Baronet (Sir J. Graham) was First Lord of the Admiralty, and the right hon. Member for Hertford (Mr. Cowper) was a Lord of the Admiralty, and they could not then do without music and banners. The right hon. Baronet ob- jurgated the hon. Member for Cirencester and his (Mr. Berkeley's) hon. relative for endeavouring to put down the glorious pomp, pride, and panoply, of glorious elec- tions. The right hon. Baronet's taste for music was so strong that it seemed he could not go to an election without "Rule Britannia" played before him, and the right hon. Member for Hertford could not be induced to give up "The Girl he left behind Him." This Bill, however, in- cluded similar clauses to those to which the right hon. Baronet and the right hon. Gentleman formerly objected. Were they prepared now to adopt the Bill because it contained clauses which they before argued were grounds for its rejection? It might be a good thing to get rid of music and banners and cockades, but he (Mr. Berke- ley) believed that the provisions of the measure which professed to prevent cor- rupt practices and intimidation would be wholly inoperative, and he should therefore move, as an Amendment, that the House resolve itself into Committee on that day three months.

MR. CRAUFURD seconded the Motion. He said he supported the Bill on a former occasion by voting for it on several stages; but when the House rejected the declara- tion he considered the measure would be a failure, and he could no longer support it. The Bill was only carried through by a very narrow majority. If he wanted any authority to support the views he enter- tained, he need only refer to the late de- cision in the Court of Exchequer on the

question of expenses. The question there raised was, that although it was proper, and within the provisions of the Bill, to furnish carriages for the electors, yet it was uncertain whether there could be a legal payment for travelling expenses; and the Court, after a most able argument, and taking time to consider their judgment, held that those expenses might be paid. It was stated by one of the learned Judges on that occasion that the Act had been inconsiderately framed, and ought to be amended. He might mention that the last election for the county of Ayr, which lasted only one day, cost more than the previous election, which lasted two days. In that case, therefore, the Act had been clearly inoperative. He also must condemn the system of placing an election auditor, like a toll-keeper, over candidates, to tax them as far as he pleased, but without being able to do them the slightest benefit. Now, he would beg to ask the noble Lord at the head of the Government whether he would, with the knowledge he possessed, press this Bill through the House? Legisla- tion of this sort was not required; it did not check expenses, but it added to the expenses those of a useless officer.

Amendment proposed, to leave out from the word "That" to the end of the Ques- tion, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

MR. INGRAM said, he could not help expressing his great surprise that the hon. Member for Bristol (Mr. H. Berkeley) should oppose the Bill. The experience which he (Mr. Ingram) had had in the borough he had the honour to represent (Boston) convinced him that the Act was of very great use in checking expenses. He could state that at the last election for that borough not one single farthing was expended in treating, and cockades were not required; and whatever might be con- sidered necessary with regard to having bands of music in the parks on Sundays, there was but one opinion as to the im- propriety of having music at elections. He should support the Bill, because he felt certain that great benefits would be derived from its operation.

MR. TITE said, that he agreed with very much that had been said by the hon. Member for Bristol; and having had the

experience of two contested elections and one Election Committee, he could only say that there was but one remedy for the evils that prevailed, and that was the remedy which the hon. Member had so often proposed, and which the House had so often rejected. Since his experience of contested elections, he had always supported the Ballot, and should continue to do so, thinking it the only means of putting a stop to the evils of contested elections and the intimidation, which did not cease with the election, but was continued by the publication of the list of voters. He held in his hand one of those famous Blue-books in which, not only the name of the voter but the amount of the rating was given—an invitation to exclusive dealing, and a mode of keeping up political irritation, which the ballot would effectually put an end to. He thought, therefore, there was but little use in passing a mere continuance Bill, as this really was, but that the Legislature should direct its attention to a remedy for the evil itself. He would admit, however, that there was some good in the Bill. It defined the character of bribery and the nature of agency: the appointment of the election auditors, and the compulsory render of accounts, was also a good measure, though clumsily carried out; he thought, too, that the expenses of the auditors were excessive, and the mode of payment, by fees, absurd. In some cases these gentlemen would pocket £50 or £60 for preliminary fees, for merely walking into a borough and then walking out. There were 912 candidates at the last general election, and forty members lost their seats; if there were the same number of candidates at the next election, they would have to pay £9,500 in the first instance. He would by no means abolish the office of election auditor—which, as he had said, he thought a very useful institution—but he thought that if the Town Clerk or the Clerk of the Peace were *ex-officio* the election auditor, there would be less complaint, and such a person holding a public office, for which he was responsible, would be less liable to corrupt influences. He had given notice of several Amendments, which would remedy some of the inconveniences of the existing law. Among them was one which provided that the declaration of the agents should be made before the returning officer and kept by the auditor. Again, the present state of the law as to travelling expenses was uncertain and full of peril to the candi-

Mr. Tite

dates by a recent decision in the courts of law. The whole question turned on the mere wording of a note: that is whether in the language of the law the letter inviting the voter to come contained a condition precedent or not. If the House were not prepared to do away with such expenses, they were bound to legalise them, and that could best be done by reintroducing the clause which was expunged by the House of Lords; and he had therefore, proposed an Amendment introducing words permitting the candidate to pay, or cause to be paid, the actual and reasonable expenses of bringing voters to the poll. But the most important Amendment he proposed was, to compel the petitioner and sitting Member, on inquiry before any Select Committee of the House of Commons, to give evidence, but in such case he would take away the penalty attached to the act of bribery, and would provide that such evidence should not afterwards be used in any indictment or criminal proceeding against the parties giving it. With regard to the accusation of bribery at the last election in Bath, he believed there was no foundation for such a charge. He believed there was no bribery, and he knew that none of his money was spent in any such way. If the Bill were to be merely a continuance Bill for one year, and a promise given that a Committee would be appointed next Session, he would not propose his Amendments; but if not, he should move them in Committee.

SIR GEORGE GREY said, that the present Bill was not proposed for the first time as a Bill for checking corrupt practices at elections, nor was it a Bill for rendering permanent the present law. The Government merely asked the House to continue the Bill for one year, without Amendment, the intention of the Government being to propose next Session a Committee of Inquiry into the operation of the Bill in those elections which had taken place since the measure became law. Hon. Members did not seem to be agreed as to the operation of the Act, because, while the hon. Member for Bristol (Mr. H. Berkeley) said the Act was a failure, the hon. Member for Boston (Mr. Ingram), who had had recent experience of the working of its provisions, said its operation was most beneficial. The question was one upon which other hon. Members were just as well enabled to judge as the hon. Member for Bristol. He would not express any opinion one way or the other

on the subject, but it was desirable that some inquiry should take place before a Select Committee previous to the Act being either continued permanently or abandoned as a failure. [Mr. H. BERKELEY: Has the right hon. Gentleman heard Colonel Sleigh's statement?] He had not heard Colonel Sleigh's statement, but he had heard the statement made by the hon. Member for Boston. Colonel Sleigh's statement was not before the House. It might be true, but let it be submitted to a Committee, and let evidence be tendered by those who complained of the operation of the Act. If it was the opinion of the House that the Act should be continued for a year, it would be better to go into Committee on the present Bill at once, instead of getting up a desultory discussion upon the details.

MR. P. W. MARTIN said, he believed that the Corrupt Practices Prevention Act had been of great benefit to the country. He stood in that House fresh from a severely contested election, which was followed up by a petition, and he had therefore had some experience of the working of the Act. There were no open houses on either side in the city which he had the honour to represent (Rochester), and he did not believe that so much as £5 had been spent in drinking during the election in a town of 16,000 inhabitants, if there had been he was sure some of his Friends would have detected it. There had been no treating and no bribery, and he wished for the credit of the inhabitants to say that any charge to the contrary was quite unfounded. He should be glad to see an Amendment agreed to in Committee with regard to travelling expenses, since the alteration which had been proposed would make an enormous difference to the pockets of the candidates. If travelling expenses were prohibited altogether the prohibition would be nugatory, for a labouring man could not be expected to lose a day's work and spend a day's pay in coming to the poll. But if such expenses as the House agreed to allow were paid openly through the election auditor, a great improvement would be effected.

MR. W. WILLIAMS said, that although the Bill could in no way prevent bribery or intimidation, it effectually prevented treating; and so far it was, no doubt, productive of considerable advantage. He very much regretted that the measure had not passed the House with that provision recommend-

ed by the Committee from which it had emanated in its original form, under which every Member would have been required before taking his seat to make a declaration that he had incurred no illegal expense at his election. Persons well acquainted with the subject had expressed their belief that that was the only proposal which had ever been made for the prevention of corruption in the return of Members to that House.

SIR SAMUEL BIGNOLD said, he thought the Bill a very useful one. Every shilling of expense he had incurred at his recent election for Norwich had been laid before the world under the provisions of that measure.

MR. H. BERKELEY said, he would not withdraw his Amendment, that the Bill be read a third time that day three months, unless he should receive a distinct assurance from the Government that they would merely make it a continuance measure, and that they would refer the whole subject to the consideration of a Select Committee early next Session.

VISCOUNT PALMERSTON: I stated, Sir, on a former occasion, and I have not the least difficulty in repeating now, that it is the intention of the Government to refer the Bill to a Committee at the earliest period possible next Session. We are quite aware that the Bill is imperfect. We cannot, however, admit that it is a failure, but it certainly requires, and is susceptible, of amendment, and that amendment can be better made in a Select Committee than in a Committee of the whole House. I am, therefore, quite ready to give the pledge which the hon. Member requires.

MR. WALPOLE said, he thought it would be desirable to insert in the Bill an Amendment of which the hon. Baronet the Member for Shoreham (Sir C. Burrell) had given notice, under which the number of polling places would be increased among such constituencies as those of East Retford, Aylesbury, Shoreham, and other places, which extended over large portions of counties.

SIR GEORGE GREY said, that such a provision would not come within the scope of the Bill now before the House.

Amendment, by leave, *withdrawn*.

Main Question put, and *agreed to*.

Bill *considered* in Committee.

House resumed.

Bill *reported* without Amendment.

VICE-PRESIDENT OF COMMITTEE OF
COUNCIL ON EDUCATION BILL.

Order for Second Reading read.

SIR GEORGE GREY, in moving the second reading of this Bill, said it related to a subject which had been much referred to in the course of the debates on education during the last and the present Session. The Government were strongly pressed last Session to alter the constitution of the Committee of Council on Education; and instead of leaving the administration of the funds, voted by Parliament for education, in the hands of a body, constituted out of the Committee of Council, consisting of several Members of the Government, but no one of them having any of that individual responsibility which ought to attach to a Minister of the Crown, the importance was pointed out to the Government of centralising the responsibility as to administering those grants, and superintending matters of education, so far as the Government were concerned, in the hands of one Minister. It was also pressed on the Government that a representative of this department should have a seat in that House, and be ready to explain all the measures which had been taken by the Government, with the concurrence of Parliament, for the promotion of education, and should also take his share of the business which devolved upon such department. Accordingly, his noble Friend at the head of the Government announced that it was their intention to propose a Bill at the commencement of the Session for that purpose. This Bill was introduced into the House of Lords in fulfilment of that pledge, and having passed that House it now came before them for their consideration. It authorised the appointment of a Vice President, who would be enabled to have a seat in the House of Commons, and would be the responsible Minister there in all matters connected with education, so far as the Government were concerned. The Bill had been before the House a considerable time, but its passage had been delayed partly out of deference to the hon. Member for Sheffield (Mr. Hadfield), who objected to it, and partly in consequence of pushing forward other Bills which had to go up to the House of Lords by a certain day. The only objection he had heard raised against the Bill was by that hon. Member, who was opposed to all grants whatever for education, and who thought that, by passing the Bill, Parliament would

give an additional sanction to the grants which it now placed at the disposal of the Government for the purpose of extending education. But not only those grants, but the Committee of Council on Education itself had been recognised by various Acts of Parliament. He trusted, therefore, that the House would pass the Bill, which he believed would effect a most beneficial change.

Motion made, and Question proposed,
"That the Bill be now read a second time."

MR. HADFIELD said, that notwithstanding the statement of the right hon. Baronet he could not approve of the Bill, and should move that it be read a second time that day three months. He found, for instance, that the new Minister was to have no jurisdiction in Ireland, where a large portion of the money voted for educational purposes was expended. The Bill was of a most extraordinary and indefinite nature, with the exception of that portion which regulated the salaries. He should like to know what the duties to be performed under it were? He must also complain that of the enormous sums voted for the purpose of education, the Church obtained by far the greater part. He thought the House would be doing an injustice to the cause of education by creating an office of this kind. When such offices were created there was no getting rid of them, except by means of an enormous compensation; and if this one were created, with a salary of £2,000 or £3,000 a year, a like demand would be made. The principle of the Bill was bad, and the measure itself had been ill-considered. It was true, as had been stated by the right hon. Baronet, that it had been introduced early in the Session, but it had never been brought on for discussion. He trusted that Her Majesty's Government, which had not brought it in on its own free will, would not lend the weight of their authority in its favour, and that it would be rejected. It would be far better to withdraw it, and come next Session prepared with a well-considered measure. For a long time the voluntary principle had prevailed, and it was only when it became a means of creating political capital that the subject was taken up by the great parties in the State, who used it merely as an instrument in their hands.

MR. PELLATT seconded the Amendment.

Amendment proposed to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

MR. INGHAM said, he regarded the Bill as a most satisfactory measure, and one which, if adopted by the House, would effectually tend to the promotion of education. Many schemes for the extension of education had been proposed, but had failed on account of the great diversity of opinion which prevailed throughout the country. He believed the best plan would be to continue the present liberal grants, and to keep both schoolmasters and scholars to their duties by a vigilant and intelligent inspection, at the same time allowing some degree of discretion to those who had the administration of the funds. At present the Committee of Privy Council, to avoid the imputation of partiality, was obliged to lay down certain rules and abide by them strictly; but if there was a representative of the Committee in that House who could explain and justify each grant, it would have a much wider discretion, and would be able to effect more good.

Question, "That the word 'now' stand part of the Question," put, and *agreed to*.

Main Question put, and *agreed to*.

Bill read 2^o.

GENERAL BOARD OF HEALTH CONTINUANCE BILL.

Order for Committee read; House in Committee.

MR. MICHELL said, he felt called upon to complain of the increasing cost of this Board. At first it was only £1,300 a year, and now it had increased to between £19,000 and £20,000, besides pensions to the amount of £1,500 a year. The Board had done more harm than good, and its defective mode of laying down sewers—at Croydon, for instance—had caused more disease than it had removed.

MR. COWPER said, the General Board of Health was not responsible for laying down sewers in provincial towns. All it did was to approve the plans, and if there was any defect in the sewerage at Croydon, which the hon. Member had instanced, it was certainly not in the plans, but in their execution. As to the expenses of the Board, he would remind the hon. Gentleman of the large amount of public money saved by the application of the Public Health Act to fifteen towns, at an expense of only between £150 and £200, whereas a separate local Act would have cost them

something like £1,000 each. Those towns at least were not dissatisfied with what they had thus obtained. The hon. Member had forgotten, too, that by the Act of 1848, before a town could borrow any money for public works, to be repaid in a term of years, they must have the sanction of the Board of Health. In such cases the Board had to take care that the interest of the persons who were to pay the loan hereafter should be considered, and that if the work undertaken did not promise to extend its benefits beyond a period of ten years, the repayment of the money spent should not be extended beyond that period. The amount of money which had been borrowed under the Public Health Act up to the present time amounted to no less than £2,500,000. All the works which were to be made with that money had been carefully examined by the General Board, and that was one of its functions which, while it was most important, was also one which gave great satisfaction to the local boards. Hardly a week passed without plans being sent up by local boards for the inspection of the engineer attached to the General Board, and it very frequently happened that those plans turned out utterly worthless, involving a great expenditure of money, and certain to prove failures and produce disappointment. In many instances the General Board of Health had prevented local boards from thus wasting their money, and in that way he felt certain that it was productive of much good. It should likewise be remembered that the General Board was instituted, not only to carry out the Public Health Act, but for a great number of other useful purposes, to which he need not now allude. He only hoped, however, that the friends of the sanitary cause in that House would not allow themselves to be blinded by mere prejudice against the Board of Health, but would consider how necessary it was that there should be some department of the State whose business it was to take cognisance of all those matters in which legislation or the action of Government might be usefully employed to protect the lives, to preserve the health, and to promote generally the physical well-being of the people of this country.

SIR GEORGE PECHELL said, he could not avoid expressing his disapproval of the Act of 1848, and hoped the right hon. Gentleman would give some idea of the improvements he intended to make in that measure next Session.

VISCOUNT GODERICH said, he wished to ask his right hon. Friend to give his attention to the Bill recommended by the Select Committee, which had inquired into the subject, and of which he was a Member. He believed that if such a Bill were introduced in the next Session of Parliament, it would meet with a more ready acquiescence than any other measure that could be proposed.

Bill passed through Committee; House resumed; Bill *reported*, without Amendment.

COUNTY COURTS ACTS AMENDMENT BILL.

Order for taking the Amendments in consideration read.

MR. HENLEY said, he had understood the Bill should be recommitted, that the clauses might be considered, as they had been passed through Committee at a very late hour, and in a great hurry.

SIR JAMES GRAHAM said, that also was his opinion, but he was given to understand that after the present stage the Bill would be reprinted in its amended state.

SIR GEORGE GREY said, it would be, and that the third reading should not be taken before Tuesday at Twelve o'clock.

Clause 9.

SIR JAMES GRAHAM said, he wished to draw the attention of the Government and the Chairman of Ways and Means to this clause, to which he greatly objected. He had provided, in framing the first County Court Act, 9 & 10 Vict., that the clerk should reside in their districts. That had been found ineffective, and he had pointed out the importance of more stringent provisions for the residence of the County Court clerks in their districts. He knew of one who resided 120 miles from the district. The present clause did away with the absolute prohibition of non-residence, and he hoped that it would be withdrawn, and that the absolute prohibition would be restored.

MR. WILSON said, that the clause was only intended to meet exceptional cases, but it would be liable to abuse, and, therefore, he should not oppose its omission.

Clause *struck out*.

Clause 30.

SIR STAFFORD NORTHCOTE said, he wished to call attention to this clause, which would materially affect proceedings in the superior Courts, and it also deprived plaintiffs of costs of suit in those Courts in cases where they recovered judgment by

default for less than £20. That would operate prejudicially in many cases, and he should propose to insert the words, "except where the plaintiff dwells more than twenty miles from the defendant." The present law gave concurrent jurisdiction to the Superior Courts so that his proposition would only retain the law in its present state.

MR. FITZROY said, that the clause was in accordance with the principle of the County Courts Act, and was to prevent actions being brought in the superior Courts for sums under £20, except under certain circumstances. If it was a fit case for the superior Courts, the Judge would always certify for costs. A plaintiff residing more than twenty miles from a debtor, might by the present law sue him in the superior Courts.

MR. MURROUGH said, that a judgment by default could be obtained at a less expense in the Superior Courts than in the County Courts. It would cost in the Superior Courts only £2 5s., whereas in the County Courts, where the parties resided more than twenty miles apart, the expense might be ten times that amount, for the whole case must be proved. The present clause could only have been framed by some person not practically acquainted with the subject.

MR. COLLIER said, the policy of the County Courts system was to allow the suitor an option of suing in the Superior Courts where his debtor did not reside within twenty miles of him. He should support the Amendment.

MR. MONTAGU CHAMBERS said, the difficulty was this, an action might be brought, not knowing whether it would be defended or not; and it would be absurd to force the action into the County Court, which would cause far greater expense to the defendant. If the plaint were in the Westminster County Court, and the cause of action arose at Lewes, £10 expense might be caused by the necessity of bringing the witnesses to prove the case. However, if there was power for the suitor to apply to a Judge for the costs, the difficulty would be remedied. And in that case he would support the clause.

MR. ROEBUCK said it was so.

Question "That those words be there inserted," put, and *negatived*.

Clause *agreed to*.

Clause 82.

MR. ROEBUCK said, he desired to remind hon. Members that he had called the

attention of the House early in the Session to the case of Mr. Falconer, and of another Judge, who claimed the increased allowance of £1,500 a year. The hon. Gentleman the Secretary for the Treasury had on that occasion stated that had that Motion not been made, those Judges would have received the increased allowance, as a Treasury Minute had then already passed. He proposed to omit certain words in the clause, which would enable those Judges to be placed in the receipt of that allowance from the date of the Treasury Minute.

MR. WILSON said, that when the hon. and learned Gentleman brought forward a Motion some months since on this subject, he (Mr. Wilson) stated that as long ago as December last the Treasury had decided that the two Judges in question were entitled, by reason of the amount of business transacted in their Courts for the last three years, to be added to the list of Judges who should receive £1,500. One of those Judges was Mr. Falconer, a relative of the hon. and learned Member; the name of the other he did not know. In the month of January, Mr. Falconer addressed the Treasury claiming to be placed in the position of a Judge receiving £1,500 a year, and was informed that a Treasury Minute granting him that salary had already been passed. About the time when the hon. and learned Member (Mr. Roebuck) brought forward his Motion a communication to that effect was made to the Home Office, and the Home Secretary replied that, inasmuch as the Lord Chancellor intended to introduce before long a measure for the general regulation of the County Courts, it would be better to defer the consideration of the question until then. The Treasury Minute, however, had been long since agreed to, and he was clearly of opinion that to those two Judges the Treasury was committed. He was bound to say, from all he had seen and heard, that a more assiduous, able, or conscientious County Court Judge than Mr. Falconer did not exist.

Amendment *negatived*.

Bill to be read a third time on *Tuesday*.

MARRIAGE LAW (SCOTLAND) AMENDING BILL.

Order for consideration of Amendments read.

SIR JAMES GRAHAM said, he wished to know whether the right hon. and learned Lord Advocate would have any objection to strike out from the Bill the words "usual

place of residence," in reference to Scotch cases?

THE LORD ADVOCATE said, he was afraid there would be a difficulty in agreeing to do so.

MR. HENLEY said, he would suggest whether those words would not create a great laxity in construction, as they might be construed to mean some sort of residence contradistinguished from actual residence.

THE LORD ADVOCATE said, he would take the suggested Amendment into consideration before the third reading of the Bill.

SIR JAMES GRAHAM said, he must again appeal to the House whether or not it would be advisable that a joint application ought to be made by both bride and bridegroom, which would entail no hardship, and would not be productive of inconvenience.

Bill ordered to be read a third time *To-morrow*.

COAST-GUARD SERVICE BILL.

Order for Committee read.

House in Committee.

Clauses 1 and 2 were *agreed to*.

Clause 3.

SIR GEORGE PECHELL said, that when an emergency recently occurred, and the services of the coast-guard were required for manning Her Majesty's ships, it was found that there were some 2,000 or 3,000 men employed in the coast-guard who were unfit for service afloat, and he thought the House ought to "know the reason why." It should be clearly known who were to blame for such a state of things. If the rule providing that to qualify a man for service in the coast-guard a special certificate should be required from the commander of the ship in which he had served had been adhered to, an efficient force would have been at the command of the Government. There were in the coast-guard service a number of officers who were civilians, and he should like to know what the Admiralty intended to do with them. The Bill provided for the coast-guard having the charge of the naval volunteers, an arrangement which he approved, and he trusted it would prove successful. It was matter of complaint that though the coast-guard were exceedingly useful in the protection of life and property the House should understand that was a service for which they never got promotion.

SIR CHARLES WOOD said, that with reference to the civilians mentioned by the hon. and gallant Member, they would not be subjected to the discipline imposed on the sailors of the coast-guard, but would be allowed to remain as they now were. The sailors he had spoken of as too old for the service had no doubt once been good seamen, but had been too long in the coast-guard. It was intended to pay those men off with pensions, and replace them with younger men fit for any duty to which they might be called.

Clause *agreed to*.

Clause 4.

SIR GEORGE PECHELL said, he wished to inquire if the children of the men serving in the coast-guard would be eligible to the schools at Greenwich? One of the qualifications for admission as they at present stood was, that the candidate should be the child of a mariner in either the Royal Navy or in the merchant service.

SIR CHARLES WOOD said, that when the Bill passed into a law all the men employed under it would be treated as seamen of the Royal Navy, and their children would be eligible to the schools at Greenwich.

SIR GEORGE TYLER said, he would beg to ask whether the Coast Volunteers were to be kept up, or whether the coast-guard was to replace them?

SIR CHARLES WOOD said, that the coast-guard were to be under the control of the Admiralty, and to be trained for service in the navy, particularly in the management of gun-boats. All coast-guard men would be entered as seamen on the Admiralty books. Some of the older coast-guard men were not so entered; and no alteration would be made in respect to them.

Clause *agreed to*.

Clause 5.

MR. HENLEY said, he thought that the power given to the Admiralty of taking five acres of land at any point within half a mile of the coast of any navigable river for the erection of barracks for the coast-guard was too extensive. Under the existing Act power was given to take half an acre only.

SIR CHARLES WOOD said, he did not anticipate that there would be any material increase of coast-guard stations, or that it would be necessary to exercise the power granted by the clause. But the existing law had been found insufficient, and the consequence was that great num-

bers of the coast-guard were lodged in villages, where they were exposed to all sorts of temptation. What he wanted was to have power to erect stations where none existed at present.

SIR GEORGE PECHELL said, that in addition to the five acres there was power given to provide foot-paths, &c.

LORD HARRY VANE said, he did not think that sufficient explanation of the reason for those additional powers had been given.

SIR WILLIAM HEATHCOTE said, he thought that it was desirable that sufficient barrack accommodation should be provided; but he would ask the right hon. Baronet if not less than five acres would be sufficient?

SIR CHARLES WOOD said, that if the Committee would pass the clause as it stood, he should reduce the number of acres to three on the third reading.

Clause *agreed to*; as were also the remaining clauses.

House resumed; Bill *reported*, without Amendments.

MERCANTILE LAW AMENDMENT BILL

Order for Committee read.

House in Committee.

Clause 1 *struck out*.

Clause 2.

MR. HENLEY said, he must urge the rejection of the clause. A man might at present safely buy cattle in open market, but if the clause passed he would be liable to have his right to them disputed by any person who represented that they were stolen and claimed them as his property.

MR. LOWE said, the question had been considered by the Mercantile Law Commission, a Commission composed of many learned persons, who were of opinion that in the event of the sale of stolen property it was better, as the loss must fall on some one, that the purchaser rather than the original proprietor should suffer. The clause, however, was no insertion of his, and he had no wish to press it against the wish of the Committee.

MR. ROEBUCK said, he thought the buyer in open market ought to be protected, as he had no means of knowing that the property was stolen, whereas the proprietor might by precaution defend himself against robbery.

MR. MALINS said, he also concurred in the objections urged against the clause.

MR. LOWE said, he must confess that there was great justice in what had been

stated in opposition to the clause, and as he was inclined to think that there was great advantage in affording every facility possible to dealings between man and man, he would consent to the omission of the clause.

Clause *struck out*.

Clauses 3, 4, and 5, *agreed to*.

Clause 6.

MR. MULLINGS said, he should move the omission of the clause, which provided that a guarantee to or for a firm should cease upon a change in the firm, except in special cases.

Question put, "That Clause Six stand part of the Bill."

The Committee *divided*:—Ayes 95; Noes 13: Majority 82.

Clause *agreed to*, as was also Clause 7.

Clause 8 *withdrawn*.

The remaining clauses were *agreed to*.

House resumed; Bill *reported*, with Amendments.

CURSITOR BARON OF THE EXCHEQUER BILL.

Order for Second Reading read.

THE CHANCELLOR OF THE EXCHEQUER said, he would now beg to move the second reading of this Bill, the object of which was to abolish an office the duties of which had become merely formal. As Tuesday next was the last day, according to the rules of the House, on which Bills could be sent up for second reading, he hoped there would be no objection to allowing the Bill to pass another stage that day, and to read it a third time and pass it to-morrow.

MR. STUART WORTLEY said, the only duties of the Cursitor Baron in recent times had been to make a ridiculous speech in introducing the Lord Mayor and Sheriffs, when a certain number of nails were counted and so many sticks were chopped, a ceremony which attracted a good many ladies to witness, but was of no earthly use. He thought some less absurd mode of introducing the sheriffs might be devised.

THE CHANCELLOR OF THE EXCHEQUER said, the Bill only provided that the duties of the Cursitor Baron should be discharged by one of the Barons of the Exchequer, or by an officer appointed by the Court, but he thought it would be in the power of the Court to make regulations for the ceremony which they thought fit.

MR. STUART WORTLEY: It may end, then, in the speech being made by one of the Ushers of the Court.

Bill read 2^o, and the Standing Orders having been suspended, it passed through Committee, and was *reported* without amendment.

JUDGMENTS EXECUTION BILL.

Order for Committee read; Motion made and Question proposed, "That Mr. Speaker do now leave the Chair."

MR. WHITESIDE said, he should move that the Bill be committed that day three months. If the Bill passed there would be nothing to prevent a fraudulent creditor in Ireland coming over and getting a judgment here, and then sweeping away all his alleged debtor's property in Ireland, without the possibility of stopping him. He could not see why a private Member should be allowed to revolutionise the law after this fashion at his own pleasure.

MR. P. O'BRIEN said, he thought that if the principle of the Bill was good, it ought to be introduced as a Government measure. He should second the Amendment.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

Question put, "That the words proposed to be left out stand part of the Question."

The House *divided*:—Ayes 51; Noes 39: Majority 12.

Question again proposed, "That Mr. Speaker do now leave the chair."

MR. WHITESIDE said, he should now move the adjournment of the debate. He had frequently stated his objections to the measure, and had not had them answered. He believed it would open the door to innumerable frauds. It was an impolitic Bill—there was no ground for pushing it at that period of the Session.

MR. NAPIER said, he was opposed to the Bill, as justice could not be done to it at the present period of the Session.

THE LORD ADVOCATE said, that the Bill was introduced on the 4th of February, and now the right hon. and learned Gentleman said there was not time to consider it. He would, however, recommend his hon. and learned Friend the Member for Ayr, who had charge of the Bill, to withdraw it, and to leave out Ireland when he next introduced it, as he would then have more chance of getting it passed.

MR. CRAUFURD said, he was afraid he must adopt the suggestion of the right hon. and learned Lord Advocate, and be content with the partial success which the Bill had obtained. He thought, however, he had reason to complain of the hon. and learned Gentleman opposite (Mr. White-side), who led him to believe that he would support the Bill, and even agreed to put his name on the back of it. He would not on the present occasion press his Motion, but he would re-introduce it early in the ensuing Session.

Motion and Original Question, by leave, *withdrawn*.

Bill withdrawn.

REFORMATORY AND INDUSTRIAL SCHOOLS BILL.

Order read for taking into consideration the Lords' Amendments to this Bill.

SIR GEORGE GREY said, he should move that a clause which had been inserted by their Lordships, giving to magistrates power in certain cases to send juvenile criminals to a reformatory school, without the infliction of the punishment of previous imprisonment, should not be agreed to. It was incompatible with the provisions of several other clauses in the Bill.

MR. GORDON said, he must differ from the right hon. Baronet, for he regarded the Amendment in question as quite in consonance with the other provisions of the Bill; and certainly it was a clause which, sooner or later, must be enacted. He considered that it was desirable to retain a discretionary power in the hands of the magistrates to send juvenile offenders to a reformatory institution, instead of committing them to prison, which was the object of the Lords' Amendment.

SIR STAFFORD NORTHCOTE said, that although favourable to the clause, he thought it would not harmonise with other provisions of the Bill; and he therefore recommended that it should be withdrawn, and that this matter should be made the subject of legislation in a future Session.

MR. STUART WORTLEY said, he trusted the House would accept the Bill. He was at a loss to discover anything incompatible between the original clause and the Lords' Amendment. Cases often arose in which it was desirable that a child should be saved from the disgrace of being sent to a convict prison; and the law ought, in his opinion, to provide for such cases.

MR. HENLEY said, he must express

his concurrence in the observations of the Secretary of State for the Home Department, and should support the rejection of the Lords' Amendment.

MR. ROEBUCK said, he was in favour of the Lords' Amendment. He considered the practice of sending juvenile offenders at once to prison as rather calculated to confirm than correct them in their early tendency to vicious courses.

VISCOUNT PALMERSTON: Sir, the clause under discussion is perfectly incompatible with the arrangements of the Bill as it now stands, and, in my opinion, that is quite a sufficient objection to the clause without entering into the merits of the case; but, I am bound to add, that when the subject was discussed some time ago, I entirely concurred in the principle upon which this clause was resisted. It is now, however, urged, that committing children to prison before sending them to reformatory institutions places them, to a certain extent, beyond the chance of reformation. If, however, this House decides upon sending children to those institutions in the first instance, I very much fear that parents will induce their children to commit offences in order to have them educated at the public expense. To avoid this I consider that they should be subjected to some short period of imprisonment before being sent to any reformatory institution. The object of the Bill is to reform criminals, not to hold out to the lower classes the temptation of getting their children educated at the expense of the country. It is objectionable in principle, because, instead of a punishment, it holds out a species of premium to crime.

LORD ROBERT CECIL said, no Member of the Government had attempted to prove that the clause was incompatible with the general purport of the Bill, but they had all contented themselves with asserting that the fact was so. The argument of the noble Lord (Viscount Palmerston), that parents might induce their children to steal that they might be admitted into these schools, was, in his belief, fallacious. The parents had an interest in getting them into prison, where they would be supported at the expense of the public; but they could not have any in forcing them into schools where they would have to contribute to their support.

SIR GEORGE GREY said, that if he were not precluded by the rules of the House from again speaking on the ques-

tion, he could demonstrate that the clause was incompatible with the general purpose of the Bill.

Motion made, and Question put, "That this House doth disagree with the Lords in the said Amendment."

The House *divided*:—Ayes 46; Noes 31: Majority 15.

Committee *appointed*, "to draw up Reasons to be assigned to the Lords for disagreeing with the Amendment to which this House hath disagreed:"—Sir GEORGE GREY, Mr. MASSEY, the LORD ADVOCATE, Mr. HENLEY, Mr. FITZROY, Sir STAFFORD NORTHCOTE, and Mr. KINNAIRD:—To withdraw immediately; Three to be the quorum.

JOINT-STOCK COMPANIES WINDING-UP ACTS AMENDMENT BILL.

Order for Committee read.

Motion made, and Question proposed, "That Mr. Speaker do now leave the chair."

MR. WHITESIDE said, that one effect of passing the Bill might be to interfere between the Master of the Rolls in Ireland and Mr. James Sadleir, whose effects had, he understood, been seized on their way to furnish a villa at some place unknown. It was contrary to all sound principle to enact a law to meet such a case as that of the Tipperary Bank. It was his belief that it was a measure introduced for a particular purpose, and he was of opinion that it was calculated unfairly to prejudice the interests of the smaller class of farmers who had been made the victims of the unparalleled frauds of the Sadleirs in the case of the Tipperary Bank, for those men would probably know nothing of the person who was to be allowed as their representative, to dispose as he might please of their rights. He should move that the House resolve itself into a Committee on the Bill on that day three months.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee" instead thereof.

MR. MALINS said, he could deny that the object of the Bill was to enable the shareholders of the bank to avoid the payment of their debts; its object was, in fact, the very reverse. The truth was, that a vast number of actions had already been commenced, and if the Bill were rejected all the assets would be swallowed up in

law expenses. The carrying out of the provisions would be dependent on the Master of the Rolls in Ireland, whom the hon. and learned Gentleman had so much and so justly lauded. He regretted that the hon. and learned Gentleman had so little confidence in the tribunals of his own country. Unless he (Mr. Malins) had known that the Bill was one for the benefit of the creditors—3,000 in number—he would have had nothing to do with it. The simple object of the Bill was to enable shareholders who had property to make a surrender of it, and then to obtain a discharge.

MR. HENLEY said, although the hon. and learned Gentleman (Mr. Malins) represented the Bill as a creditors' Bill, it was remarkable that it did not give the creditors any hold on the property of their debtors. The effect of passing the Bill would be, that the creditors would be induced to accept a small dividend, and very soon parties who had declared that they had next to nothing would hold up their heads again, and appear as well off as ever. He was strongly opposed to the measure, and he thought it most ill-judged, in the midst of a gigantic swindle, such as that which had just been perpetrated in Ireland, to step in, and by a legislative enactment, reverse the position of the parties.

Question put, "That the words proposed to be left out stand part of the Question."

The House *divided*:—Ayes 31; Noes 40: Majority 9.

Words added.

Main Question, as amended, put, and *agreed to*.

Bill *put off* for three months.

Notice taken, that Forty Members were not present; House counted; and Forty Members not being present,

The House was adjourned at a quarter before Three o'clock.

HOUSE OF LORDS,

Friday, July 18, 1856.

MINUTE.] PUBLIC BILL.—1st Income and Land Taxes; Stamp Duties; Racehorse Duty; Coast guard Service; Corrupt Practices Prevention; General Board of Health Continuance; Militia Pay; Cursitor Baron of the Exchequer; Lunatic Asylums Act Amendment.

2nd Courts of Common Law (Ireland); Unlawful Oaths (Ireland); Parochial Schools (Scotland).

8th Intestates Personal Estates; Incumbered Estates (Ireland); Metropolis Local Management Act Amendment (No. 2); Sherburn Hospital; Oxford College Estates; Prisons (Ireland); Commons Inclosure (No. 2).

STEAM-PACKET COMMUNICATION BETWEEN HOLYHEAD AND KINGSTOWN.

VISCOUNT DUNGANNON said, he was anxious that the Session should not close without some explanation from the Government on a matter which was of the greatest importance to the public. He alluded to the present state of the steam-packet communication between Holyhead and Kingstown. It was hardly necessary for him to remind their Lordships that, after the most minute inquiries on the part of practical men, it had been ascertained that the passage between Holyhead and Kingstown was the best, speediest, and safest between this country and Ireland, and that in consequence a railway had been constructed along the coast from Chester to Holyhead, crossing the Conway and Menai bridges. Yet that part of the passage which was most essential was in reality most defective. In the first place, the present steam-packets could not afford sufficient accommodation for the passengers who were perpetually passing and repassing; and, in the second, the time consumed in the passage was far greater than it need be, if steamers of proper horse power were placed upon the station. At present the passage was never under four hours and a half, even in the calmest weather, and if there was any head wind, it was often five hours and a half, and sometimes six hours. If steamers of sufficient horse power were employed, the passage could be made in three hours, and if they were 350 feet in length, there would be ample accommodation for the passengers. The noble Duke (the Duke of Argyll) might not be aware of the inconvenience to which the public was subjected, but if he had often to cross over to Ireland he would see the necessity of some change. He (Viscount Dungannon) hoped that the mere question of expense would not be considered by a great country like this. He should therefore ask his noble Friend whether there was any prospect of an arrangement being come to between Her Majesty's Government and the Steam Packet Company relative to a line of larger vessels with increased horse power.

THE MARQUESS OF CLANRICARDE said, he wished to ask at what hour the

mail train from London would start? The noble Duke on a former occasion had stated that it would start at half-past seven in the morning—a most inconvenient hour.

THE DUKE OF ARGYLL said, there was a very fair prospect of a satisfactory arrangement being made with the steam-packet companies; negotiations were not yet completed, but he hoped they would come to a speedy conclusion. With regard to the remark of the noble Marquess, he would observe that it was the clear duty of the department with which he was connected to accelerate as much as possible the passage of the mails, not only to Dublin, but also to the rest of Ireland. In order to carry out that object, in order to prevent other parts of Ireland from being sacrificed to the metropolis, it was essential that the mails should arrive at Dublin in sufficient time to allow of the departure of the provincial mails as early as they were now despatched. If they were allowed to be despatched at a later hour the arrangements for the distribution of the letters in the distant parts of the country would be seriously disturbed. He did not think there was anything very unreasonable in requiring passengers to start from London for Dublin at half-past seven in the morning.

FURTHER ARCTIC EXPEDITION.

LORD WROTTESELEY said, that the noble Earl (the Earl of Ellesmere) who had given notice of the question he (Lord Wrottesley) was about to put to Her Majesty's Government, was, unfortunately, obliged to absent himself through illness, and he had delegated his task to him. He had, therefore, to inquire whether Her Majesty's Government had returned an answer to a memorial relative to a further Arctic Expedition? He trusted he might be allowed to accompany this question with some remarks explanatory of the position in which the whole matter now stood, the rather that much misconception prevailed upon the subject. The tale of Arctic search and Arctic suffering was indeed a melancholy one, and awakened so many sad and painful recollections, that he greatly feared, lest in his sympathy for the sufferers he might exaggerate the merits of the case he had undertaken to plead. He should much regret such a result, for he was well aware that in taking this course he was incurring a grave responsibility. Through eight long dreary years the relatives and friends of

those gallant men who had served their country only too well anxiously awaited, and awaited in vain, some tidings of their fate. During the first part of that distressing period, they expected with each returning summer or autumn to welcome those adventurous seamen returning home in triumph from a successful enterprise, crowned with civic laurels, and about to reap the well-earned reward of their meritorious exertions. During the latter part of that period they hoped to receive some intelligence which might enlighten them as to the manner and the circumstances under which the little band of heroes had breathed their last—perhaps after much suffering removed, very far removed, from their cherished homes. Those who had experienced the misery of thus losing those who were near and dear to them in foreign lands, where the details of the calamity were necessarily imperfectly known, would remember how anxiously we desired to know all the particulars of the mournful event—the how, the when, and the where—each additional fact when learnt, added acutely to the sorrow; and yet there was a continual craving to know more and more; a thirst that could not be allayed. But in the case to which he alluded, to fill up the measure of sorrow, we had to add the agonies of suspense, since every day, every hour of each returning year might bring complete relief, or a confirmation of the worst anticipations. At last, in 1855, the crisis of the fate of these mariners arrived, and a cruel revelation was made, the particulars of which he should shortly detail:—Their Lordships were aware that, commencing with the year 1848, several expeditions, both by land and sea, were, with laudable zeal, sent out by the Admiralty, and even by our brothers on the other side of the Atlantic, to endeavour to ascertain the fate of Franklin and his companions. He would not weary their Lordships with the details of these exploits anterior to 1854; suffice it to say that, by some cruel fatality, they seemed all to have proceeded in every direction but the right one. Nothing was ascertained beyond the discovery, in 1851, of the graves on Beechy Island, the only effect of which was to send one of the best-appointed expeditions that ever left our shores in a wrong direction—to the north instead of to the south. He now came to the eventful year 1854; but before detailing the transactions of that year it was necessary, in order that their Lordships might compre-

hend his description of them and his comments upon them, that he should explain a few particulars relative to the configuration of the north coast of America. Three great rivers fell into the Polar Sea, flowing from the south. The Mackenzie River was that most to the west, the Coppermine River occupied the centre place, and the Great Fish, or Back River (the mouth of which was the scene of the events he was about to describe), flowing towards the north-east, occupied the most eastern position of the three. The general trending of the north coast of America was west and east, but opposite to the Coppermine River was situate, separated from the main by a narrow strait, a vast island extending through twenty degrees of longitude; similarly, opposite to the mouth of Back River, there was on the west a comparatively small island, very imperfectly explored, called King William's Land, and on the east there was a long tract of land consisting of a peninsula to the south and an island to the north. The peninsula and island were divided by a narrow strait, called after the gallant Frenchman who perished—Bellot's Strait. The peninsula was called Boothia, and the island was called North Somerset. Now, on each side of this long peninsula—and he begged their Lordships particularly to attend to this—there were two magnificent inlets or arms of the sea, running from north to south from Barrow's Strait; that to the west was called Peel Sound, and debouched on the south into Victoria Strait, at the southern extremity of which lay King William's Land and the estuary of the Back River; that to the east was called Prince Regent's Inlet, and it terminated in Boothia Gulf. In the year 1854, the Hudson's Bay Company sent Dr. Rae, one of their most intelligent and adventurous Arctic travellers to explore the west coast of Boothia Peninsula. When he arrived in Pelly Bay, which was near the bottom of Boothia Gulf, he obtained from various Esquimaux, whom he encountered there, certain particulars relative to the fate of Franklin and his companions. The story was to the effect that about 1850 a party of about forty gaunt and starving men were seen dragging a boat over the ice to the north of King William's Land; that they went down the west coast of that island, and afterwards perished near a great river. Now, had not this story been confirmed by the circumstance that these Esquimaux were in possession of various

relics of the expedition, which Dr. Rae brought home, it would have been placed, as it well deserved to have been placed, on a par with various other falsehoods told by these Esquimaux during the progress of this search. Not any one of these Esquimaux who told the story had seen any of the forty men. Dr. Rae was at one time within fifty miles of the scene of the alleged catastrophe; but being, as he states, then uninformed as to the precise locality, unhappily returned home without visiting it. Neither the Government nor public were satisfied, and it was an important point in the case that they were not satisfied. Another land expedition went out in 1855 under Anderson; they descended the Back River, but they could obtain no interpreter; they were only provided with birch-bark canoes, too frail to live in the open sea; and they were supported by no ship laden with supplies and able to overawe the natives. They returned with more relics, but with no additional information of importance, except that these forty men, with a large boat, had actually arrived within the estuary of the Back River and perished there. Such was the present state of the question, and since that time the Admiralty had been in vain importuned to finish the good work they had begun. Another expedition was advocated, upon arguments which seemed unanswerable to himself and others. It was said that the clue was now found of which we had been so long in search; that the danger was now slight, because the area of research was limited to a comparatively small district, situate between the 68th and 72nd degrees of parallel of latitude, and the meridians of 95 and 100 degrees west, a region almost wholly unexplored; that even now, late as it was, a ship might be got ready by the middle of August, which might be directed to enter either Peel Sound or Prince Regent's Inlet, according as the one or the other was most free from ice; and after she had penetrated as far south as possible, walking parties might be detached from her to the scene of the catastrophe, distant probably about 400 miles (and walks of 1,200 miles had been made); or that if the approach from the west was preferred, Captain Collinson had undertaken to take a ship within 150 miles of the spot by that route. It had been shown that only forty men out of 135 had been accounted for; that as the settlements of the Esquimaux were certainly reached, as evidenced by their possession of the relics,

Lord Wrottesley

some of the men so unaccounted for might yet be living domesticated among these tribes; that nothing had been found but a few forks and spoons and other trifles; that the boat party had not been traced back to the ships; that the ships had not been found; that they remained possibly intact, frozen up and abandoned near King William's Land; but that, even if broken up, inasmuch as, by the invariable practice of Arctic voyagers, journals and scientific records were kept carefully in tin cases, at least some portion of these might be discovered. It was a great mistake to suppose that the interests of science were in no way concerned in sending out another expedition. In the first place, the scene of the catastrophe had been scarcely at all explored; and, in the next place, it was a great object to recover the magnetical records—for magnetical observations made within the Arctic and Antarctic circles were peculiarly valuable in reference to the theory of magnetism. Now, as a very perfect set of magnetical instruments was supplied to Sir John Franklin's expedition, and they were consigned to the charge of officers of high scientific attainments, who received a special training in their use, the observations made were likely to be very valuable. Then, supposing such an expedition on other grounds to be deemed expedient, what an opportunity it offered to some of those gallant members of the naval profession who had been thrown out of employment by the peace, and were disappointed that the war had yielded such few opportunities of distinction. In conclusion, the noble Lord said that a further expedition was recommended in a temperate memorial, signed by influential and well-informed men of almost every grade and profession, and advocated by distinguished Arctic navigators, who supported their opinions by facts and reasonings which carried conviction home to the minds of men accustomed to estimate the bearings of doubtful evidence—that such an expedition would furnish employment for gallant officers; that it might lead to the recovery of lost scientific records of great value; that it might gratify the longings of attached and mourning relatives, and especially of a widowed lady who had made great sacrifices on behalf of her heroic and lamented husband; and, above all, that it would carry out to its legitimate solution an important problem in which the honour of England was largely concerned, and

which had excited the curiosity and interest of the whole civilised world.

LORD STANLEY OF ALDERLEY said, although nothing was more natural than that such should be the strong desire of the friends of all engaged in the expedition, which reflected so much honour upon those of whom it was composed, and upon the English name, and also of persons interested in the scientific results which might be expected from the recovery of the documents supposed to have been left by that expedition, yet other considerations must be taken into account before another Arctic expedition was despatched. His right hon. Friend at the head of the Admiralty was of opinion, that, at all events, it was much too late to entertain hopes of organising an expedition this season with any chance of success. His right hon. Friend was, however, fully disposed to take into his most serious consideration in the recess whether it was desirable that any further expedition should be sent out. But he (Lord Stanley) would submit to the noble Lord whether they ought to incur the responsibility of risking the lives of brave men for such an object. As long as any hopes remained of rescuing our brave countrymen from those inhospitable regions many strong reasons might be urged for fitting out another expedition; but when the only object was the obtaining further details of the fate of these unfortunate men and some further scientific information, it was matter for grave consideration before the Government undertook such a responsibility.

THE CRIMEAN BOARD OF INQUIRY—
REPORT OF THE COMMISSIONERS—
ADDRESS FOR.

THE EARL OF LUCAN rose to move—That an humble Address be presented to Her Majesty, praying Her Majesty that She will be graciously pleased to give Directions that the Report of the Chelsea Board of Officers be laid upon the table of the House. The noble Earl said that he regretted to find himself compelled to seek from their Lordships that justice which he could not obtain from the Minister of War; but he thought it was impossible to question this fact—that it was the fixed purpose of the Minister of War not to present the Report of the Chelsea Commissioners to Parliament during the present Session. The noble Lord began to be exceedingly entertained, and he could promise the noble Lord more

amusement before he concluded. He believed that the fixed purpose of the noble Lord was to withhold the Report from Parliament and from the country; and such a course of conduct appeared to him (the Earl of Lucan) to be inconsistent with common justice. Indeed, it was difficult to understand the feelings that could have prompted that determination on the part of the noble Lord, or the boldness and assurance that could support it; but unquestionably it had been in every mouth for a long time past, that it was not the intention of the noble Lord to present this Report to Parliament this Session. The answers given in that House to questions put by him (the Earl of Lucan) to the noble Lord left it without a doubt that that was his intention; and his (the Earl of Lucan's) firm belief was, that unless he could prevail upon their Lordships that night to agree to this Motion, justice would be denied to the officers of the army by the withholding the Report. To satisfy their Lordships that he was not doing an injustice to the noble Lord, he should remind them that on the previous Monday week the noble Lord stated, in answer to a question put by him (the Earl of Lucan), that he believed the Report had not at that time reached Her Majesty, and that in consequence of the illness of the Commander in Chief, it was very doubtful when it would; and that after it had been laid before Her Majesty, it would have to be considered by the Government what course they should take upon it before it could be laid upon the table of the House. However, on a subsequent occasion the noble Lord admitted that he had been misinformed—that he had since found the fact to be that the Report had been laid before Her Majesty, but that up to that time (Friday last) it still continued in Her Majesty's hands, in consequence of no printed copy of the evidence having been forwarded with the Report to Her Majesty; and that it would remain with Her Majesty till She had an opportunity of comparing it with that evidence. He hoped to hear on the present occasion from the noble Lord that the Report had reached him from Her Majesty. Now he (the Earl of Lucan) knew not what object the noble Lord had in the statement to which he had just referred, but it appeared to him (the Earl of Lucan) that that statement might lead to the inference that Her Majesty was, to some extent, a party to the injustice which

the withholding of the Report inflicted upon the officers whose conduct was referred to in it; but it was well known that Her Majesty's first care was to do honour to Her army, and that she had deeply sympathised in the sufferings which they had undergone in the Crimea; and, therefore, no one could for one moment suppose that Her Majesty would be a party to the doing of an injustice to any portion of that army. He would tell the noble Lord that it was upon him, and upon him alone, that the whole injustice of withholding the Report must be laid. The noble Lord had said that it would be necessary for him to read over every word of the evidence before he could advise Her Majesty as to what steps should be taken in reference to that evidence, and to the Report which had been founded upon it. In that case there would be little chance of the Report being laid before Parliament during the present Session. But what was the course which had been taken by the noble Lord with reference to the Report of the Crimean Commissioners? Let the House for a moment contrast the noble Lord's conduct with respect to that Report with his conduct with respect to the Report now asked for. In the case of the Report of the Crimean Commissioners there was so much precipitancy and haste displayed by the noble Lord, that he found it impossible to refer that Report for the consideration of the Commander in Chief; indeed, he went farther, and said that he had scarcely allowed himself time to peruse it before he laid it before Parliament. Undoubtedly, such a Report ought to have been referred to the Commander in Chief; but such was the haste to lay it before Parliament, that that course was not taken, and though the document was only signed during the last two or three days of January, it was on the table of their Lordships' House by the 4th or 5th of February. The contrast was not favourable to the noble Lord, who now showed himself so slow in repairing injustice by presenting an exculpatory Report. The noble Lord now smiled. [Lord PANMURE: No.] But he could assure the noble Lord that he (the Earl of Lucan) knew no more about the contents of the Report than the noble Lord himself. However, this he did know—he knew every word of the evidence given before the Commissioners, and having the greatest confidence in their honour and integrity,

Earl of Lucan

he felt sure that the whole of the allegations made against him (the Earl of Lucan) and other officers must be stamped by the Commissioners as totally unfounded. For himself he felt little concern, because immediately after the conclusion of the evidence Colonel Tulloch came over to him, and though he had never said a word or communicated with that gallant officer before, he (Colonel Tulloch) said he thought it due to him (the Earl of Lucan) to state that had he not been misled by the evidence given him in the Crimea, by Colonel Gordon and Sir Richard Airey, he or the other Commissioner would never have said a word to his (the Earl of Lucan's) disadvantage. After such a statement as that, taken in connection with the evidence given at Chelsea, he (the Earl of Lucan), thought he was fully warranted in assuming that the Report was, so far as he was concerned, an exculpatory Report. The Minister of War excused himself on the last occasion for not producing the Report, and stated that he was acting under the advice of the Judge Advocate General. He did not desire to comment upon the manner in which that learned Gentleman conducted himself on that inquiry, or he might say that he appeared to him (the Earl of Lucan) to assume more the authority of the Board than the position of the legal adviser of the Board. What character the learned Gentleman assumed during the deliberations, with closed doors, he would not say, but he could not shut his eyes to the fact that he was a colleague of the noble Lord the Minister of War, and was, therefore, no doubt most unfairly, open to the suspicion that he might not be more impatient for the drawing up of the Report than the noble Lord was for producing it. The noble and learned Lord Chief Justice shook his head; but that did not alter the facts, and he (the Earl of Lucan) could not regard the noble and learned Lord's shake of the head as an answer to what he was putting to the House.

LORD CAMPBELL hoped the noble and gallant Earl would pardon his interruption, when he said that he (Lord Campbell) could not hear any one in a judicial situation accused without what he considered any ground, and not express his dissent from the accusation.

THE EARL OF LUCAN believed it to be repugnant to all sense of justice that, in a political inquiry a political partisan should

be the officer to advise the court. A review of the proceedings at Chelsea made it clear that the administration of justice before military courts required consideration on the part of the Legislature, and, as he believed that consideration could not be given to it in a more fitting place than their Lordships' House, he hoped the next Session would not pass away without the attention of their Lordships being called to the office of the Judge Advocate General, the functions of that officer, his tenure of office, and the mode of procedure before military courts, which he did not hesitate to say was at present unnecessarily tedious and obstructive to eliciting truth. Well, the Report had, no doubt, been presented, and the evidence had been printed, for it was printed from time to time while the inquiry was being proceeded with; but something had been said about the appendix not being printed. Now, he could not understand how that could be, because some papers had been returned to him on the ground that they could not be received after the close of the inquiry, and if all the papers proposed to be printed were in the hands of the Commissioners when the inquiry terminated he could not account for the delay in printing the appendix. However, he did not think it necessary that the appendix should be printed before the Report was laid upon the table of the House, for the House had frequently received Reports and the papers which accompanied them volume by volume. On a former occasion the noble Lord the Minister of War stated that in the case of the Commission on the Convention of Cintra, the manuscript remarks made on the Report by George IV. were countersigned by Lord Castlereagh, after the Report was returned to the Government by the King, and that this was done before the document was presented to the House. Now, seeing that it had been stated that Parliament would be up in a week from this time, if the noble Lord intended to follow the precedent of the Cintra Convention Commission Report, he (the Earl of Lucan) did not think it likely that the Minister of War would produce the Report of the Chelsea Commissioners during the present Session, if the House did not express some opinion on the subject. He thought he could not be charged with any undue haste in bringing this question before Parliament. The Report had been signed fourteen days; eleven days had elapsed since it was laid before Her Majesty; this was the 18th of July; and in

the course of another week, the present Session of Parliament would be brought to a close. Entertaining, therefore, as he did, the conviction that the Minister of War would not produce this Report to the House unless their Lordships expressed an opinion on the subject, he hoped he should not be considered unreasonable in calling upon the House to support his Motion. The noble Earl concluded by moving—

“That a humble address be presented to Her Majesty, praying Her Majesty that She will be graciously pleased to give directions that the Report of the Chelsea Board of Officers be laid upon the table of the House.”

LORD PANMURE said, that after the speech of the noble Earl, in which he complained that it was his (Lord Panmure's) intention to withhold from him justice on this occasion, he thought that the very few facts which he (Lord Panmure) was about to state to their Lordships would show them the utter unreasonableness of the address to which they had just listened. Throughout the whole of his statement the noble Earl had told them of apprehensions which existed in his own mind, but for which, in his (Lord Panmure's) opinion, the noble Earl had given no reason whatever. Let him just trace the course of these proceedings; and let their Lordships mark the course which the noble Earl had pursued with reference to them. On the 7th July this Report was first presented to the Queen. On the 8th the noble Earl demanded to know when it would be laid before Parliament. He (Lord Panmure) said nothing on that occasion to justify the noble Earl in arriving at the conclusion that he was averse to laying the Report before Parliament. He (Lord Panmure) admitted the reasonableness of the anxiety felt by the noble Earl, for himself, and on the part of the officers whose case had been before the Commissioners at Chelsea; and all he claimed for the Government was time for the consideration of the Report before it was laid upon the table of the House. That Report was delivered to the Queen in manuscript on the 7th of July: every page of that Report referred to the proceedings which were not delivered to Her Majesty till the 9th. The 10th intervened; and late on the evening of the 11th he received that Report and those proceedings from Her Majesty, with an expressed desire that She should receive the advice of Her Cabinet on the subject. On the 12th he laid the Report before the Cabinet; the

13th was Sunday ; and the Report, which he had sent to be printed on the evening of the 12th, was delivered to him in a printed shape, occupying some thirty pages of close type, on the 15th. This was the 18th ; and during the time that had intervened between the day he received the Report and that on which he received it in its printed shape he instructed the Under Secretary of State to state, in reply to a question which was to be put in the other House of Parliament, that it would be laid upon the table as soon as possible. His colleagues and himself had between the 15th instant and the present day perused the Report. They had not yet advised Her Majesty with respect to it ; but between that day and Monday they would tender that advice to Her Majesty ; and, therefore, he could not conceive why the noble Earl had arrived at the inference that the Report was not intended to be laid upon the table before the rising of Parliament. He could assure the noble Earl that it was his intention to lay the Report upon the table on Monday, and not only the Report, but the proceedings attached to it, and the appendix, which he could not understand why the noble Earl assumed was not printed. That appendix was printed with the rest of the proceedings, which he believed had been printed and published from day to day during the inquiry. So much as to the documents. Now, with regard to the whole proceeding, it seemed to him that the noble Earl had been trying to fix upon him some intention, personally, of withholding justice from him (the Earl of Lucan) and the other officers. He could assure the House that no such intention had ever existed in his mind ; and in reply to the noble Earl's charge that the inquiry at Chelsea had been a political one, he (Lord Panmure) begged most distinctly and positively to aver that there had never been any proceeding more removed from the character of a political inquiry. That inquiry was a military-judicial inquiry, demanded by the officers themselves, and referred to officers of as high character as that of any officers in Her Majesty's service, without reference to their political opinions in the smallest degree. Nay, more, it was his conviction that if the political opinions of the Chelsea Board were inquired into, they would be found to be very much more in accordance with those of the noble Earl than with those of Her Majesty's Government. But because the Judge Advocate General, in his official

Lord Panmure

capacity, was the adviser of the military Board on that occasion, the noble Earl gave that as a reason, forsooth, why that Board should assume a political hue. There was one answer for that—namely, that there was not an officer on that Board who, whatever might be the position of a public servant brought in connection with him in the discharge of judicial duties, would allow political opinions to bias him in respect to the conduct of the inquiry. The noble Earl insinuated that during the time the doors of the Board-room were closed, and while the public was excluded, the Board might have received some advice or other from his (Lord Panmure's) right hon. and learned Friend the Judge Advocate, which might have delayed the production of the Report in the first place to Her Majesty. Now, on a former occasion he (Lord Panmure) had stated that in the inquiry at Chelsea, while in most respects following the precedent of that which took place in 1808 with reference to the Convention of Cintra, in some it was deviated from, so far as allowing a fuller examination of the matters in hand, so as to assist the Commissioners in arriving at a conclusion. He found, on referring to the Report in the Cintra Convention case, that the Report was delivered to the King on the 22nd of December ; and as far as he could gather from the order made by the House of Commons for the printing of the document, it was not laid before Parliament till the 31st of January. He did not know whether Parliament had been sitting before that date, but his impression was that it had been, for in 1808 Parliament assembled at an earlier period of the year than it now usually did ; but it was clear that a very considerable delay had taken place in the delivery of the Report to the House from the time it was presented to the King. He did not, when before speaking on this subject, say that that Report was not signed by the Secretary of State ; but what he said was, that the remarks made on that Report by His Majesty were countersigned by Lord Castlereagh as Secretary for State. The noble Earl had contrasted the time which had elapsed since the Chelsea Report reached the hands of the Government with the immediate production of the Report of the Commissioners from whose statements the late inquiry had emanated. But the Report from the Commissioners sent to the Crimea was made under a very different state of circumstances. The Commissioners who

were sent to the Crimea to inquire into allegations which had been made by other sources were sent by the Government; the Government announced to Parliament that they had sent them, and gave Parliament distinctly to understand that as soon as the Commissioners reported, their Report should be laid upon the tables of both Houses. He would again repeat, that, so far from there being any intention on the part of Her Majesty's Government of withholding the result of the present inquiry, it was his (Lord Panmure's) intention to have presented the Report to both Houses of Parliament on Monday next; and under those circumstances he could see no necessity whatever for the noble Earl's Motion.

THE EARL OF DERBY said, that after the assurance given by the noble Lord, his noble and gallant Friend would not of course press his Motion for an Address to the Crown for the production of the Report; and he had no doubt that had such an assurance been given to his noble and gallant Friend at an earlier period, he would not have thought it necessary to bring forward the present Motion. The language, however, of the noble Lord opposite on the two occasions upon which the subject was mentioned was, as he understood—not having been present on either of those occasions—such as to lead his noble and gallant Friend to suppose that there would be considerable delay in the production of the Report.

LORD PANMURE: I did not use any such language.

THE EARL OF DERBY could only say what he had heard was the language of the noble Lord. It was such as to leave his noble and gallant Friend under the impression that it was not the intention of the noble Lord, on the part of the Government, to bring forward the Report previous to the recess. On the first occasion to which he referred, the noble Lord had erroneously stated, as a ground for delay, that the papers had not then been presented to Her Majesty. The noble Lord, it appeared, was in error in that statement. And on the second occasion of the question being asked, the noble Lord stated that the papers were not received back from Her Majesty, and that when She did send them back it would be necessary for the Government to review them. [Lord PANMURE: No, no!] He could only say what he had heard was the nature of the language used by the noble Lord—

that it was not likely the papers would be produced before the rising of Parliament; and certainly those conversations had left his noble and gallant Friend under the impression that it was not likely an opportunity would be afforded to their Lordships for a consideration of the Report before the recess. That being the case his noble and gallant Friend was naturally anxious for the production, as soon as possible, of the Report which so materially concerned himself and other gallant officers. His noble and gallant Friend was, therefore, quite justified under such circumstances in giving notice of a Motion for an Address to the Crown on the subject. But now, whether the production of the papers on Monday should be considered as the spontaneous act of the noble Lord, or the result of this Motion for an Address to the Crown, the result was such as to render a perseverance by his noble and gallant Friend in this Motion unnecessary.

EARL BEAUCHAMP bore his testimony to the impartial manner in which the whole inquiry was conducted.

LORD CAMPBELL said, that as the noble Earl had made a charge against the Judge Advocate, imputing misconduct during the investigation in question, he (Lord Campbell) thought it his duty to say that he was sure no one could have conducted himself more honourably or impartially during the trial than that distinguished functionary.

THE EARL OF LUCAN denied that he had ever made any such imputation against the Judge Advocate General. He certainly expressed an opinion on the fact of the Judge Advocate acting as adviser to the Board in a political inquiry; and he thought that it was just possible that the Judge Advocate would have shown no more anxiety in the drawing up of the Report than the noble Lord opposite had done in the presentation of it to the House.

LORD CAMPBELL said, he was of opinion that the Judge Advocate had conducted himself with the utmost possible impartiality.

Motion (by Leave of the House) *withdrawn*.

INCUMBERED ESTATES (IRELAND) BILL.

Order of the Day for the Third Reading read.

THE MARQUESS OF LANSDOWNE, in moving the third reading, expressed his

opinion that the object of the measure was of a most useful character. As a person connected with Ireland, and aware of the difficulties which this measure had had to encounter, he wished to state that nothing could exceed the zeal, ability, and personal courage with which these Commissioners had executed the important task intrusted to them. More had been done by this new Court in six years than had been effected by the Court of Chancery during the space of half a century. One ninth part of the whole country of Ireland had changed hands without any blemish or fault in the proceedings, unless it were in one case only, where the value concerned was £25. Not less than £18,000,000 of money had been awarded, out of which sum £15,000,000 had been actually received. As an Irish proprietor he felt deeply indebted to the Commissioners for the manner in which they had discharged a great public duty.

Moved, that the Bill be now read 3^d.

THE MARQUESS OF CLANRICARDE said, that he viewed the Bill with great regret. He did not deny that the law which the Bill was intended to continue had done great good to Ireland; but that was the very reason why the Court should not be continued for two years, and for two years only. Laws such as those should not be allowed to continue exceptional and temporary, but should be incorporated in the permanent legislation of the country. If this could not be done, it would be better that the law should cease altogether. There was nothing now exceptional in the state of Ireland; it was in a state of great order. It was time to arrive at a state of normal law with regard to the property of the country. It was not right that men who had not over-encumbered their estates should be placed at a disadvantage with those who had. What he could have wished would have been a different Bill—one to enable the present Court to wind up its business, which it would take only one or two years to settle, and not to allow any further petitions to be received by it. There ought to be some explanation as to the continuance for two years. He did not blame the Government in the matter—the Bill was founded on the report of Commissioners and arose from the contests of legal men, who had prevented the Government from carrying out its intention. This exceptional court ought to be suspended, and they should come to a

The Marquess of Lansdowne

fixed measure, not only with regard to the incumbered property, but with regard to all the property of Ireland. The Bill affected not only land but mortgages. He knew that one-third of the property bought in the Incumbered Estates Court had been paid for by borrowed money, and there were some cases in which the purchaser had not paid a single shilling, and some in which they were giving eight per cent for the money they borrowed. If this were so, it clearly defeated the object which the Bill was intended to accomplish. And there was, moreover, this consequence—that any one with an incumbered estate, who wished to raise money, could not do so, without paying enormous interest. With respect to the practice and procedure of the Court itself, he admitted that on the whole the Court and those who presided over it deserved the thanks of the public; but he could not agree in the unqualified approbation which had been expressed by the noble Marquess who had just sat down. There were not wanting instances of considerable importance to prove that the Court was not altogether faultless; while in matters of minor details there had been an irregularity and uncertainty—not to use the more popular expression, caprice—which were perhaps incidental to a Court so hastily and so imperfectly constituted, but which nevertheless were much to be regretted. The fact was that the real estates of Ireland required a permanent law and a permanent Court to deal with them, and he hoped that the Government would give an assurance that at as early a period as possible they would introduce a measure of that nature.

THE LORD CHANCELLOR concurred with his noble Friend that the principle of having an exceptional Court was extremely objectionable. On that account Her Majesty's Government, at the commencement of the Session, introduced three Bills, the great object of which was to make the Court perpetual—not confining it to incumbered estates, but giving it jurisdiction with regard to the sale of estates generally. Those Bills were introduced in the other House of Parliament, and were subsequently referred to a Select Committee. Great difference of opinion prevailed in the Committee, and the result was that they disapproved of the establishment of a permanent tribunal, mainly, he believed, because the Judges were named Vice-Chancellors, there being a vulgar prejudice

against anything connected with the Court of Chancery. The Commissioners, however, reported in favour of the continuance of the Incumbered Estates Court. He confessed it would be much more satisfactory to his mind that that Court should be made a permanent institution of the country, and not be treated as an exceptional Court. He was happy to find that there was nothing in the present state of the landed property of Ireland to render any exceptional legislation of this kind justifiable. Although he could not exactly pledge himself to any particular course, he might say that the Government would be actuated by the same feelings as he had expressed, and that the matter would not escape their attention and consideration. It was, he thought, marvellous that so few errors had been committed during the progress of the transactions of the Court. There were only one or two cases in which the decisions of the Court had been called in question, and whether rightly or wrongly was yet to be ascertained. But even if the Court were wrong in those two cases, he thought that they could hardly express a greater tribute of praise to the proceedings of any court or tribunal than to say that in the course of its seven years of business, involving transactions amounting to £18,000,000, there were only one or two cases in which the decisions of that Court had been called in question. If their Lordships assented to the third reading he would suggest an Amendment, which would make the Act to expire contemporaneously with the next Session of Parliament, instead of the 28th of July.

Motion *agreed to* ; Bill read 3^a accordingly, and *passed*.

PAROCHIAL SCHOOLS (SCOTLAND) BILL.

Bill read 3^a (according to order) with the Amendments.

On Motion, That the Bill do now pass,

THE DUKE OF BUCCLEUCH called attention to the Amendments made in that Bill against the wishes of the Government, and said he was very anxious to know what the Government intended to do in relation to the clauses struck out of the Bill.

THE DUKE OF ARGYLL said, he thought it quite possible that the other House might reinsert in the Bill the clauses which had been struck out of it at the instance of the noble Duke.

LORD CAMPBELL hoped that nothing would be done that could endanger the passing of the Bill.

VOL. CXLIII. [THIRD SERIES.]

THE EARL OF GALLOWAY said, he trusted the Government would use their influence to prevent the reinsertion of those clauses.

THE DUKE OF ARGYLL said, he could undertake to give no pledge as to what course the Government would pursue in the other House with respect to the new clause which had been inserted by their Lordships. On a subject of the kind, there ought to have been mutual concessions. Nevertheless, he must remind their Lordships that all the concessions made had been on the part of the Government, while upon the side of the majority in that House there had positively been none. The question at issue should be settled definitively one way or another ; for certainly the subject of which the Bill treated ought not to be dealt with as a mere continuance Bill. The measure, therefore, must be left to its fate, and he would warn their Lordships that the opinions of a large proportion of the representatives of Scotland were not to be overlooked.

THE EARL OF HADDINGTON dwelt upon the hardship which would be inflicted upon the schoolmasters if this Bill were not passed. In that case they would be rendered dependent on the charity and benevolence of the heritors, and this certainly should not be the case.

LORD PANMURE supported the Bill, and stated that all Government desired was, that while they reserved the control of the schools to the parish ministers, the children of other parties besides those belonging to the Established Church should be admitted to the benefits of them.

THE DUKE OF BUCCLEUCH remarked that the Scotch Members in the other House who supported the measure were the representatives of the boroughs, in which parochial schools were not all required, while of the county Members they were as two to one against it. The subject had been taken up by the counties of Scotland at their meetings, and, with the exception of the county of Banff, they were all decidedly opposed to the present Bill. The noble Duke had stated that no concession had been made by the noble Lords opposed to the Bill ; but, for his own part, he considered that he had given way considerably. What he most objected to was the interference of the inspectors, not in the inspection of the schools, but in other respects, and he did trust that Government would seriously consider the objection.

THE MARQUESS OF BREADALBANE called upon their Lordships not to be misled by the so-called expression of opinion of the great county meetings in Scotland. These annual gatherings could always be got to pronounce against reforms of every description. Look at their conduct with reference to the reform of the constitution of the other House of Parliament. Why the county meetings were for upholding the old disgraceful system when representation was a mockery, and they were as completely opposed to the Reform of 1832 as they were to the measure now under consideration. His belief was that if the people of England and Scotland were to be debarred a proper system of national education through ecclesiastical interference and nice religious distinctions, the sooner they severed the connection between the Established Church and education the better. Why should the clergy of the country have the control of the schools? In former times it might have been different, because then the clergy alone were educated; but it was to be hoped that now-a-days others besides the clergy were equally able to administer the work of education, and the sooner the exclusive power of the clergy was got rid of the better.

VISCOUNT DUNGANNON was sorry to hear such a declaration as that which had just fallen from the noble Marquess, because it implied that the noble Marquess thought the time was come to establish a system of education in which religion was kept out of sight.

THE MARQUESS OF BREADALBANE explained that he did not say the system should be one in which religious principles were not inculcated. What he said was, that the exclusive control should be taken from the clergy.

Motion agreed to.

Bill passed, and sent to the Commons.

House adjourned to Monday next.

HOUSE OF COMMONS,

Friday, July 18, 1856.

MINUTES.] PUBLIC BILLS.—1^o Stoke Poges Hospital; Dulwich College; Dwellings for Labouring Classes (Ireland) (No. 2).

3^o Income and Land Taxes; Stamp Duties; Racehorse Duty; Coast-guard Service; Corrupt Practices Prevention; General Board of Health Continuance; Militia Pay; Cursitor Baron of the Exchequer; Lunatic Asylums Act Amendment; Marriage Law (Scotland) Amending.

INCOME AND LAND TAXES BILL.

Order for Third Reading read.

THE CHANCELLOR OF THE EXCHEQUER said he would beg to move that the Bill be read a third time.

SIR HENRY WILLOUGHBY said, he wished to know what would be the effect of the Bill on the salaries of the collectors of the income tax? There was one officer in the City of London who received not less a sum than £6,700 a year; others received £500 and upwards. He understood the intention was to secure £500 a year to those persons. He apprehended the effect of the Bill would be greatly to increase the expenditure in the shape of salaries.

MR. SPOONER said, he did not understand the meaning of one of the clauses of the Bill. It appeared to him to guarantee to those who might not receive as much as £500 a year out of the poundage a sum which should make up that amount. But what he wished to ask was, whether the same amount would be so guaranteed when the reduction of the income tax should take place?

THE CHANCELLOR OF THE EXCHEQUER said, he had not with him a list of the salaries paid to the different collectors, but, according to the best of his recollection, the salary of the collector to whom reference had been made, at present amounted to between £6,000 and £7,000. The effect of the Bill would be to reduce his salary to about £3,000, out of which sum he would have to pay certain expenses. Although he must allow that that would be a considerable salary, yet he did not think it would be an excessive one. It was not intended by the Bill to increase the salary of any person now engaged in the collection of this branch of the revenue. The provision more particularly referred to was introduced in order to prevent a vast increase of salary; but if the effect of reducing the poundage to 1d. should be to lower the salaries below £500 of those who now received a higher sum, it was certainly intended that the amount of £500 at least should be secured to those parties. In point of fact, the object of the clause was rather to prevent a reduction of salary below a certain amount than to increase it beyond that amount. With regard to the question of the hon. Member for North Warwickshire (Mr. Spooner) as to what would be the amount of the salaries of the collectors when a reduction of the income tax should take place, he confessed that his hon. Friend looked so far

into futurity that he could hardly answer him. At the present moment the question was not one of any practical importance. But should the provision, as now drawn, not have the effect of placing the salaries of the officers on a proper scale, it would, of course, be his duty to consider whether it would not be necessary at some future time to introduce a provision to meet the exigency of the case, and prevent any undue increase of the salaries.

MR. MACKINNON said, that having paid some attention to the land-tax as an impost, he must say that, in his opinion, such a tax ought not to exist, as being levied by the Government, but that a considerable benefit would arise to the country and to private individuals if a general redemption of the land-tax were to take place under the authority of Parliament. It appeared that in April 1798, Mr. Pitt, when much straitened for money, proposed that the tax should be redeemed. The proposition was not sanctioned at the time by the House of Commons, but in the present day such a measure would, he thought, be both beneficial to the country and satisfactory to individuals. Now, he would ask what was the present state of the case? The land-tax produced a revenue of about £1,400,000 out of which £33,000 was deducted for collection. If sold, say at twenty-four years' purchase, the income tax, at 1s. 4d. in the pound, would be saved. If the proprietors were allowed the preference for the first six months, and after that period the public were allowed to purchase, many benefits would arise, and he could not see any loss or any inconvenience to either the Government or the public. A reduction of £24,000,000 might be made in the national debt if the tax was redeemed, and secure investment for trustees of settled property would be laid open to the public. At the present season of the year, and at the close of the Session, it was scarcely necessary to enter into the subject, but he hoped that early next Session the right hon. Gentleman the Chancellor of the Exchequer would allow the appointment of a Committee of the House to enter into a full consideration of it.

COLONEL FRENCH said, it was his opinion that the Bill had been brought in for the purpose of giving relief to persons in Scotland who were at present charged with the payment of the land-tax; and he thought that similar relief ought to be extended to Ireland, especially as the poor

rates were exclusively borne by the occupiers of land in that country.

THE CHANCELLOR OF THE EXCHEQUER said, the hon. and gallant Gentleman laboured under a mistake. The effect of the Bill was not to impose a tax on the landlords, nor was the relief it afforded exclusively given to the landholders of Scotland, but the same privileges would be enjoyed by the landholders of Ireland.

Bill read 3^o, and *passed*.

RACEHORSE DUTY BILL.

Order for Third Reading read.

THE CHANCELLOR OF THE EXCHEQUER, in answer to a question by Mr. W. LOCKHART, said, that the present law imposed a duty of £3 17s. upon all horses kept or used for races; and the Judges had expressly decided that the case of yeomanry horses, though only hunters, if used as racers, in yeomanry races for instance, did come strictly within the purview of the existing law. It was, however, the practice of the Revenue Department not to charge the duty on those horses, or on any horses which were not properly speaking racehorses.

Bill read 3^o, and *passed*.

COAST-GUARD SERVICE BILL.

Order for Third Reading read.

SIR HENRY WILLOUGHBY said, he should be glad to know what would be the amount of increased expense incurred by the Bill?

SIR CHARLES WOOD said, he had already stated that when the whole system contemplated by the Government should be brought into full operation a very considerable increase of expense would be incurred. The formation of a large naval reserve was a most important national object, and the country must be prepared to bear a great expense to accomplish that object. But during the present year he did not expect that any large expense would be incurred. In future the coast-guard service would be a purely maritime service, and the Vote for wages and other expenses would be taken by the Admiralty, but for the present year the sum which had already been voted for the Customs would be sufficient to pay as many men as he could expect to raise before next year.

Bill read 3^o, and *passed*.

CURSITOR BARON OF THE EXCHEQUER BILL.

Order for Third Reading read.

Bill read 3^o.

MR. STUART WORTLEY said, that considerable inconvenience would be experienced if one of the Barons of the Exchequer had to come up to town to be present when the sheriffs were sworn in, a duty till now discharged by the Cursitor Baron. He begged, therefore, to move an Amendment in order to enable the Barons to direct how that duty should be performed.

Amendment agreed to.

Bill passed.

GOOD-CONDUCT PAY OF SERGEANTS— QUESTION.

MR. PELLATT said, he wished to ask the hon. Under Secretary for War whether it was the intention of the Government to grant to the sergeants of the army, while serving, the good-conduct pay which they were in possession of at the time of their promotion to the rank of sergeant?

MR. FREDERICK PEEL said, that the War Department were disposed to allow sergeants to receive, while serving, the good-conduct pay which they had previously earned, and a correspondence had taken place on the subject between the War Department and the Horse Guards. There were difficulties in the way, but the matter was under consideration.

SITE OF SMITHFIELD MARKET— QUESTION.

MR. KER SEYMER said, he would beg to ask the Chancellor of the Exchequer, whether it was the intention of the Government to give effect to the first recommendation of the Smithfield Site Committee, namely—

“That the best appropriation, for the general benefit, of so much of the site of Smithfield as reverts to the Crown, would be to adopt it for the enjoyment and recreation of the public”?

THE CHANCELLOR OF THE EXCHEQUER said, that at present no final decision had been come to by the Government with respect to the recommendation referred to. The Government was certainly disposed to give effect to the recommendation; but before coming to a final decision with respect to it they would have to confer with the Corporation of the City on the subject; for though the Government believed that the site formerly used as a cattle-market at Smithfield, to a certain extent, became re-vested in the Crown on the abolition of the market, yet it would be necessary to communicate with the Corporation of London before coming to a final decision.

Mr. Stuart Wortley

THE REVIEW AT ALDERSHOT— QUESTION.

MR. GRANVILLE VERNON said, he would beg to ask the hon. Gentleman the Under Secretary for War whether he would have any objection to furnish a Return of the expense incurred in conveying Members of both Houses of Parliament on Wednesday last by railway to Farnborough station, and providing refreshment for them at Aldershot; and also a Return of the number of tickets issued for that occasion by the War Department, so that by an easy arithmetical calculation any Member who wished to pay his own expenses might ascertain what they were?

MR. FREDERICK PEEL said, there would be no objection to grant the Return. The whole expense had been very small, not, he believed, exceeding £260.

THE LAND TRANSPORT CORPS— QUESTION.

MR. MONTAGU CHAMBERS said, he wished to ask the hon. Under Secretary for War whether the same gratuity awarded to the men of the Army Works Corps, on their discharge from the service, would be given to the artificers of the Land Transport Corps?

MR. FREDERICK PEEL said, the two corps stood on a different footing. The Army Works Corps had been engaged under a special arrangement, with a promise that they should receive this gratuity, but the Land Transport Corps were enlisted like all other ranks in the army, were attested, and received a bounty.

THE BRAZILIAN SLAVE TRADE— QUESTION.

MR. BRAMLEY-MOORE said, he would beg to ask the First Lord of the Treasury whether he had any objection to lay on the table of the House copies of the recent correspondence on the subject of the slave trade, between Her Majesty's Minister, Mr. Jerningham, and the Government of Brazil; and also copies of any correspondence on the same subject between the Brazilian Minister and the British Government?

VISCOUNT PALMERSTON said, there would be no objection to lay the papers on the table. That part of the correspondence which had taken place before March would be given in the ordinary course in the papers relating to the slave trade for the present year, and the remainder in the papers for next year; but there would be

no objection to give it in a complete form as far as it had at present gone, according to the hon. Member's desire.

SOUTH WALES HIGHWAY ACT— QUESTION.

SIR GEORGE TYLER said, he would beg to ask the Secretary of State for the Home Department, whether, in consequence of the several memorials presented to him from highway districts in Glamorganshire, pointing out various difficulties those boards had to contend with in carrying out the provisions of the South Wales Highway Act, and praying the same might be amended, it was the intention of the Government, either in this Session or the commencement of the next, to introduce any measure for the purpose of rendering the South Wales Highway Act more just and efficient?

SIR GEORGE GREY said, that the Act affected several counties, but, as only one had complained of its operation, the Government had not thought it necessary to consider the expediency of introducing a measure to amend it.

THE DULWICH COLLEGE BILL— QUESTION.

MR. T. DUNCOMBE said, he wished to ask whether the Government intended to proceed with this Bill, which had only that morning come down from the Lords. He believed that it would meet with considerable opposition in that House, and it was too late to refer it to a Select Committee. The Bill stood for second reading on Monday next. Now, there was a strong objection to the Bill, and it would be strenuously opposed; therefore, considering the uncertain position in which it stood, he thought it would be better for the Government to withdraw it at once, and so remove the suspense of those who were opposed to it.

SIR GEORGE GREY said, he was not aware that any serious objection was intended to the Bill, but if there were any such intention it would, perhaps, be better not to proceed with the Bill during the present Session. He would communicate on the subject with his right hon. Friend the Chancellor of the Duchy of Lancaster, who had charge of the Bill as one of the Charity Commissioners. The present Bill was one of a number which had been laid before Parliament for the purpose of carrying into effect a scheme provisionally approved of

by the Charity Commissioners. He thought that there was no serious objection to the principle of the Bill, although there might be some matters of detail open to opposition. It had passed through the Lords, where it had been considered in a Select Committee. However, if any serious opposition should arise, the Bill, partaking somewhat of a private nature, would have to go to a Select Committee, and, of course, under those circumstances, there would be no time to get it through Parliament this Session.

MERCHANT SEAMEN—QUESTION.

MR. RIDLEY said, he wished to ask the Vice President of the Board of Trade, whether it was contemplated to introduce next Session any measure for establishing, under proper organisation, a new fund for the relief of aged and disabled seamen of the merchant service who were not entitled to relief from the fund to which the Act 14 & 15 Vict. c. 102, applies?

MR. LOWE replied, that the Board of Trade had no intention to introduce any such measure.

THE GERMAN LEGION—QUESTION.

SIR JAMES FERGUSON said, that it had been reported that a serious affray had taken place at Aldershot, between the soldiers of the German Legion and some British regiments, and he wished to ask the hon. Gentleman the Under Secretary for War whether this had been the case, and whether the disturbance had been attended with loss of life; and, also, whether the regiments of the German Legion were intended to remain much longer quartered with British troops?

MR. FREDERICK PEEL said, that he had received no intelligence of such an affray. The German Legion would not occupy their present quarters much longer.

BANK FRAUDS—QUESTION.

MR. ROEBUCK said, he would beg to ask the right hon. and learned Gentleman the Attorney General for Ireland whether he intends to propose any Amendment of the criminal law to meet the defects pointed out by him in relation to the Tipperary Bank case.

MR. J. D. FITZGERALD replied, that the Tipperary Bank case having disclosed the existence of a very great defect in the criminal law, owing to which more frauds might pass unpunished, it was his intention early next Session to introduce a full and

complete measure which would, he hoped, meet all cases of fraudulent appropriation of the property of others.

THE FOREIGN LEGION—QUESTION.

VISCOUNT PALMERSTON moved that the House at its rising should adjourn until Monday.

COLONEL GILPIN said, he would avail himself of the opportunity which the Motion afforded of calling attention to the long time the Foreign Legion had been kept in this country. At the time the Foreign Enlistment Bill was passed, it was distinctly understood that the men enlisted under it would only be brought here for the purpose of being trained, and the second clause of the Bill contained an enactment to that effect; and yet how stood the fact? Why, a short while ago a portion of the German Legion was sent to perform duty in Plymouth garrison. He should have thought that the Government would have seized the earliest opportunity to disband these troops, and to apply their horses to the use of our cavalry regiments, who so much wanted them. It was quite humiliating to see those foreigners well mounted and our own troopers absolutely marching before their Sovereign without horses. The matter was one of so much importance that he was sure he should be excused for asking the hon. Gentleman, the Under Secretary for War, what really were the intentions of the Government with respect to the foreign troops?

COLONEL NORTH said, he would also take the opportunity of asking the hon. Gentleman (Mr. F. Peel) whether there was any truth in the report that officers who had not served in the army three years and were about to be reduced would only receive a gratuity, instead of half-pay. He admitted that under the warrant of October, 1854, the War Office had power to make such an arrangement, but he would submit that the services of those young officers, among whom there were forty or fifty captains, had been such as fully to entitle them to their half-pay.

SIR DE LACY EVANS said, he rose to inquire what requital was intended to be made by Her Majesty's Government for the services of the chaplains in the army? He would likewise take that opportunity of expressing his opinion that some information should be given as to what was to be done with the Foreign Legion. It was originally promised that

Mr. J. D. Fitzgerald

those troops should remain in England only to be trained for warlike operations. Some months had now elapsed since the conclusion of the war, but no preparations appeared to have been made to fulfil this promise by disbanding the legion. No estimate of the probable or the actual expense of the foreign troops had as yet been laid before the House, but he had himself made some calculations on the subject, from which it was to be inferred that these 14,000 or 15,000 foreigners would cost the country between £800,000 and £900,000 more than British troops. True, the House had granted to the Government the means of raising about 50,000 militia which were not embodied, and 40,000 troops of the line, which, though they were much needed the Government had not had the ingenuity to raise, and it was possible that the money voted for such purposes might now be available for the payment of those foreigners; but he considered that some statement ought to be made upon the subject before the termination of the Session. He begged to ask the First Minister of the Crown what were the intentions of the Government as to the retaining or disbanding of these troops?

VISCOUNT PALMERSTON: Sir, I must, in the first place, respectfully enter my protest against the practice that has been growing up of late in this House of hon. Members getting up and asking the Government what is their intention upon this, that, and the other matter. No doubt there may be subjects of sufficient importance to justify prospective inquiry, but I apprehend that, speaking generally, the position of the responsible advisers of the Crown in Parliament is to be responsible for what they do, and that they are not called upon to take this House into their counsels in regard to what they are going to do on every small matter. In reply therefore to the hon. and gallant Member for Westminster, I beg to observe that what we are going to do with respect to the disposal of the German Legion, will, I trust, when done, be found perfectly consistent with law and propriety. More than this I am not prepared to say.

MR. ROEBUCK: I beg, Sir, to call the attention of the noble Lord to this significant fact, that when we ask what the Government are about to do we are met with the objection that we are too early, and when we venture to inquire what

they have done we are told that we are too late.

Subject dropped.

ACTING ASSISTANT ARMY SURGEONS— QUESTION.

MAJOR REED said, he wished to put a question to the hon. Under Secretary for War, respecting the dismissal of the acting assisting surgeons of the army. He had received numerous communications from those gentlemen complaining that they were about to be dismissed with two months' pay, while the surgeons in the Turkish Contingent and other corps were to receive twelve months' pay. Inducements had been held out to those gentlemen at the beginning of the war to enter the army; they had laboured with the greatest skill and diligence—sometimes under the guns of the enemy—dressing the wounds of the soldiers; and now they were to be sent to the right-about with a miserable gratuity of two months' pay. One gentleman stated that he had been at above £150 expense, and had only received £79 as pay. They were about to present a memorial to Lord Panmure, in which they stated that they had given up a comfortable position and their private practice, and had volunteered to go to any part of the world. Mr. O'Callaghan, a gentleman who had received the thanks of the commanding general, stated that he had regularly taken his turn in the trenches at the siege of Sebastopol, and had been the means of saving several lives at the attack on the Redan.

MR. FREDERICK PEEL said, that after what had fallen from his noble Friend at the head of the Government, he need only refer to the questions respecting the reduced officers in the army, and the acting assistant surgeons. With regard to the reduced officers, the regulation in force was that no officer was entitled to full and permanent half-pay unless he had served three years upon full pay. If the officer was not brought again upon full pay, and chose to sever himself from the prospect of being so, he might receive from the Treasury the price he had paid for his commission. As to the acting assistant surgeons, it was distinctly explained to them, that in the event of their not being brought into the list of regular surgeons they would not be entitled to half-pay, and would be discharged with two months' pay. It was on this account that a rate of pay had been given them higher than

they would otherwise have been entitled to. He believed it was raised from 10s. to 11s. a day. He could not hold out any promise that it would be in the power of the Government to alter the terms that had been proposed.

LOSS OF HER MAJESTY'S SHIP "BIRKENHEAD"—QUESTION.

MR. GORDON said, that not seeing the First Lord of the Treasury in his place, he would beg to ask the right hon. Baronet the Secretary of State for the Home Department, whether Her Majesty's Government would take into consideration the propriety of erecting, in the chapel of Chelsea Hospital, or elsewhere, some permanent memorial of the gallant and self-devoted conduct of the officers and men lost in Her Majesty's ship *Birkenhead* on the 25th day of February, 1852. He might be asked why he raised such a question at a period so long after the event to which it referred. His answer was, that it was not an unfitting time for us, now that the war was happily terminated and we all evinced our gratitude to the army which fought and suffered for us in the Crimea, to recognise services which, though of a peaceful character, were universally admitted to be as brilliant and distinguished as any recorded in our country's annals. The circumstances connected with the loss of the *Birkenhead* must be so fresh in the memory of all that it would be unnecessary for him to make any but the most passing allusion to them. The *Birkenhead*, a large troop-ship, was employed in carrying to the Cape of Good Hope the draughts of various regiments to the number of 600 men, under the command of Lieutenant Colonel Seaton, and she sailed from Queenstown in the month of January, 1852. She arrived at Cape Town at the end of February, and left shortly afterwards for Algoa Bay. On the 25th of February the disaster occurred which called forth that display of gallantry and self-devotion to which he wished briefly to advert. There were on board the *Birkenhead*, when the melancholy catastrophe occurred, in addition to the soldiers, a number of women and children and sick persons. What he wished to call attention to was the calm heroism, the stern adherence to duty, the magnanimous disregard of life shown by those brave men, while the vessel was going to pieces under their feet. The only boats available were filled with the women and children, and sent off from the

ship's side; so that the officers and soldiers, remaining on deck, deliberately deprived themselves of their only means of safety, and, calm and motionless, awaited the sinking of the vessel. Their noble conduct was well described by Captain Wright, one of the survivors, who, in a private letter, said that all the officers received their orders and had them carried out as if the men were embarking, instead of going to the bottom: that, indeed, he never saw an embarkation conducted with such an absence of noise and confusion; that there was not a single cry or murmur from any of the men; that just before the final plunge, a suggestion having been made that all who could swim should jump overboard and join the boats, the officers begged them not to do so, because the boats were filled with women and children, and must inevitably be swamped if their living freight were increased, when the men replied by a cheer, and only three of them attempted to reach the boats. This act of cool heroism, which had been estimated at its full value, not in this country alone but abroad, and had done much to sustain, and even to raise, the high character of our army for unflinching discipline, was beyond all praise. This result was in a great measure due to the efforts of Colonel Seaton, who was certainly no ordinary man, and whose rare talent for gaining the affections of the soldiers under his command and moulding them to his will had trained these men, most of whom were young and untried levies, to face danger and death with unshaken fortitude. An equal meed was due to all the other officers and men present on this trying occasion. The youngest officer of the regiment, to whom life was full of hope and promise, trod the deck by the side of his commander with as firm a step, and looked upon the ghastly horrors of death with as much bravery and composure as those who had been longest inured to peril. He (Mr. Gordon) assuredly did not think it too late to mark the country's sense of the discipline and heroism of men who had thus calmly sacrificed their lives to save others, and he therefore begged to put the question of which he had given notice.

SIR GEORGE GREY said, that every one acquainted with the circumstances just described by his hon. Friend must fully concur in the feeling tribute which he had paid to the gallant and devoted band of British officers and men who lost their lives on the melancholy occasion of the

Mr. Gordon

wreck of the *Birkenhead*. That act of noble daring, performed by men who were not inspired by the incentives or surrounded with the glory and excitement of the battlefield, but under circumstances in which there were no approving eyes to see them, deserved an equal measure of admiration and gratitude with the brightest achievements in our military history. With those sentiments Her Majesty's Government were certainly prepared to take into consideration the propriety of erecting some permanent memorial to commemorate the magnanimity and adherence to duty of those brave men.

DANUBIAN PRINCIPALITIES—QUESTION.

MR. OTWAY said, that, some years ago, several gentlemen of high character belonging to the Danubian Principalities were banished from their native country without having been previously brought before any tribunal, or condemned for any offence. If they had really been guilty of any crime, it was one in which this country had largely participated—namely, opposition to the protectorate proposed to be exercised over the Principalities by Russia. The case of these persons was laid before the Conferences at Paris, and, as a Commissioner had been appointed for the Principalities, he (Mr. Otway) wished to know whether the Government would give instructions to that Gentleman with the view of ameliorating the condition of those individuals and enabling them to return to their own country? To enable the noble Lord (the First Minister) to answer this question, if so disposed, he begged to move, as an Amendment to the Motion before them, that the House, at its rising, adjourn till to-morrow.

MR. SPEAKER said, that such an Amendment was irregular.

MR. LABOUCHERE said, he was prepared to answer the hon. Gentleman's question. The case of those natives of Moldavia and Wallachia had been brought under the notice of the Congress at Paris. It was still under the consideration of the Government, who hoped that an arrangement would be made by which the parties would be enabled to return to their own country.

THE BANK CHARTER—QUESTION.

MR. TITE asked the Chancellor of the Exchequer whether it was his intention to institute an inquiry, by way of Committee or otherwise, in the next Session of Par-

liament, into the commercial, monetary, and financial operation of the Charter of the Bank of England, and of the departments of banking and issue respectively, under the provisions of the Act 7 & 8 Vict. c. 42? It would be in the recollection of the House that early in the Session, the hon. Member for Kendal (Mr. Glyn) had asked the Chancellor of the Exchequer whether it was the intention of the Government to institute any inquiry before a Committee of that House, or otherwise, into the working and effect of the Act?—and that the reply of the right hon. Gentleman was, that if there should be a general wish for such an inquiry the Government would not oppose it; but that at the same time, under the extraordinary and exceptional state of things caused by the war, that would not be a favourable moment for an examination into the affairs of the Bank. In another place it had, however, been recently stated that it was not the intention of Her Majesty's Government to propose to the House any Motion for the appointment of such a Committee. It appeared, therefore, that the Government were contented with the present state of things, and apprehensions were consequently entertained in the commercial world that no inquiry would be instituted into the operation of the Bank Charter Act which was passed in 1844. According to the provisions of that Act, the Bank Charter might be revoked after the 1st of August, 1855, upon twelve months' notice being given by the Speaker after a Vote of the House, and he thought it most undesirable that a body like the Bank of England should be placed in a position of such uncertainty. In 1847, the Bank was subjected to a severe pressure, and Committees were appointed to inquire into the matter without, however, coming to any result; and it appeared that since 1844 the fluctuations in the value of money had been greater than they were between 1819 and 1844? and from 1844 to the present time there had been no less than forty-four different rates of discount. Such a state of things was very inconvenient to the commercial community, and it was desirable to ascertain whether it was attributable to the Bank Charter Act or to other causes. He would, therefore, now put to the Chancellor of the Exchequer the question of which he had given notice.

THE CHANCELLOR OF THE EXCHEQUER said that in the early part of the session when a similar question was put to

him, by the hon. Member for Kendal, he stated that as the country was at that time engaged in hostilities, and as various financial and pecuniary operations were in progress of an extraordinary and exceptional nature, it was not a convenient moment for instituting any inquiry. Later in the Session the same question was again put to him, and his answer was, that, looking to the period of the Session and the extent of the inquiry which a subject of this nature would necessitate—that it was not his intention to propose the appointment of a Committee; but that, if any hon. Gentleman moved the appointment of such a Committee, and the proposal received the support of the House, the Government would not feel it to be their duty to oppose the appointment. No such Motion had been made, and accordingly the Session was approaching an end without any Committee having been appointed. The hon. Gentleman now asked whether it was the intention of the Government to move, at the beginning or early in the next Session, for the appointment of a Committee to inquire into the Bank Charter Act. The only answer it was in his power to give was that the question was one which the Government had not yet considered with reference to the proceedings to be taken next Session, and that consequently they had come to no decision upon the subject.

Motion for the adjournment of the House was then *agreed to*.

CAMBRIDGE UNIVERSITY BILL.

Order of the Day for considering the Lords' Amendments to this Bill, read.

MR. BOUVERIE said, he proposed to move that the House should agree to the whole of the Amendments. The first four Amendments had reference to various provisions in the Bill respecting the constitution of the electoral body of the University, the powers of the Commissioners, and the right of voting in the University. Those Amendments were comparatively unimportant, and the only important Amendment was one in the 44th clause, which really consisted in the restoration of the words of the clause as it stood when the Bill was originally introduced by him into that House. The clause originally proposed to give to persons who were not Members of the Church of England, and who had hitherto been excluded from taking degrees, the right of taking degrees and all consequent privileges, with the exception of votes in the

Senate of the University. The hon. Member for North Lancashire (Mr. Heywood) proposed an Amendment, which was adopted, and which conferred upon persons who were not members of the Church of England, not merely the right of taking degrees, but of voting in the Senate, and so enjoying a share in the government of the University. The other House by a very large majority, exceeding two to one, had struck out that Amendment, or rather had restored the clause to the form in which it originally stood. He did not think there was any reasonable probability that the House of Lords would agree to any modification of the clause, and he would therefore propose that the House should agree to the Lords' Amendment, which, he believed, was the most that could be got. He must say, looking to the feeling which had often been exhibited on this subject in the other House, that he thought the Lords had made great concessions of opinion in agreeing to the clause as it at present stood, and he hoped that House would be disposed to meet them in the same spirit. On those grounds he should, therefore, move, that the House do agree to the Lords' Amendments.

MR. HEYWOOD said, he had an Amendment to propose, the object of which was to meet certain objections made against the clause as it stood originally. His Amendment was to give Dissenters, and other persons not members of the Church of England, the same powers as were possessed by members of the Church of England; and the main point was with regard to the public interests of the body, to open the Senate to them all. While his object was to give to Dissenters the right of admission to the Senate, he was quite willing that when the subject of theology was brought forward, only those persons should take a part in the proceedings who declared themselves members of the Church of England. He regretted the course which the Lords had taken on the Bill, as the ameliorations he asked for were in entire accordance with our national policy. The unsuccessful working of the Oxford University Act afforded one very strong reason why they should not in the present instance agree to the Lords' Amendments. It was supposed, when that Bill was passed, that the University would adopt a more modern and liberal system than before; but, so far from that, bigotry and intolerance had swelled at Oxford to a degree far higher than they had ever done in the days

Mr. Bouverie

of the old oligarchy. The same ecclesiastical spirit reigned in Cambridge, and they might consequently expect the same results. The constituent body in Cambridge did not exceed 200 gentlemen, of whom 150 were clergymen of the Church of England, and even of the fifty remaining probably one-half intended to take holy orders, so that not more than twenty of the number could be regarded as laymen. With such a constituent body they could have no difficulty in guessing what would be the system of government in the University. He therefore contended that it was humiliating to Dissenters to allow them to take degrees without sharing in the rights and privileges which those degrees ought to impart. No harm could accrue either to the Church or the State by the admission of Dissenters to the Senate, especially when he provided that they should take no part in theological examinations. Dissenters would be allowed to take the degree of B.A. or M.A., but with regard to any power, or emolument, or office, they would all be closed against them. He (Mr. Heywood), by his Amendment, wished to make the Bill one of religious liberty; whereas, as it stood, it was only one of toleration. There was, however, a much larger question for consideration, namely, the system of education pursued in the University, and he believed the introduction of new blood would be a great improvement. He would conclude by moving the Amendment upon the Lords' Amendments, of which he had given notice—namely, after the words "entitle him to," to leave out "be or to become a member of the Senate," and insert, "take any part in those proceedings of the Senate which direct the course of study, and determine the books prescribed for the examinations in Church of England theology."

MR. BOUVERIE said, there was one practice in the University of Cambridge which he thought they might imitate with advantage on the present occasion, as well as on many others—namely, not to deliberate, but merely to vote. The hon. Member for North Lancashire did not now propose to give Dissenters votes for all purposes; but, being pressed with the difficulty of allowing them to take a share in directing the theological studies of the University, he wished to make them piebald members of the Senate, having votes for one purpose but none for another. Now, of the three proposals which had been made, that was decidedly the worst:

and, believing that three-quarters of a loaf was better than no bread, he hoped the House would agree to the Lords' Amendments.

MR. T. CHAMBERS said, he thought the proposal of the hon. Member for North Lancashire was a fair compromise, and not open to very serious objection.

Question put, "That the words proposed to be left out stand part of the said Amendment."

The House *divided* :—Ayes 92 ; Noes 71 : Majority 21.

Question put, "That the House doth agree with the Lords in the said Amendment."

The House *divided* :—Ayes 90 ; Noes 73 : Majority 17.

Subsequent Amendments *agreed to*.

CIVIL SERVICE SUPERANNUATION FUND.

Order for Committee read.

MR. WALPOLE said, he would appeal to the Government not to proceed with the Bill. The evidence taken before the Committee to which the subject had been referred, and the Resolutions at which they had arrived, had not yet been laid before the House ; and, under those circumstances, considering that the Bill affected the interests of a large number of public servants, it would hardly be right to proceed with the Bill during the present Session.

MR. STAFFORD said, he hoped the Government would withdraw the Bill. It was not of so pressing a nature that it could not stand over until the next Session, and he believed that those who were affected by it would prefer that course. He would, therefore, appeal to the noble Lord opposite, who had so often conceded the point of not proceeding with Bills at that late period of the Session to withdraw the Bill for the present.

COLONEL NORTH said, he also thought that the best course which the Government could take would be to withdraw the Bill.

MR. ROBERT PALMER said, as a Member of the Committee, he must appeal to the Government to withdraw the Bill. The civil servants, he was afraid, would be more dissatisfied with the Bill than they were with the existing state of things. It certainly was not pressing, and could be left till next Session without inconvenience.

MR. T. CHAMBERS said, he should

also support the proposal for the withdrawal of the Bill.

MR. ROEBUCK said, he could not see what other course was left to the Government but to withdraw the Bill, as the evidence and the Report of the Committee were not before the House. If the subject was worth being sent to a Committee, it was worth being well considered, but at present the House was positively not in a position to pronounce an opinion upon the question.

THE CHANCELLOR OF THE EXCHEQUER said, that early in the Session he had obtained leave to introduce a Bill upon the subject of Superannuation in the Civil Service, and he had upon that occasion made a statement of the existing state of the law upon that subject. The Bill had, with the consent of the House, been referred to a Select Committee, which had received full powers not only to consider that measure, but also to investigate the entire system of superannuation in the civil service, it having been previously known to the House that great complaints had been made by members of the civil service in reference to that system. Those complaints had been principally directed against that provision in the existing law under which annual deductions were made from the salaries of all persons who had entered the civil service since the year 1829, those deductions being considered to be made with reference to the right of those persons to obtain a superannuation on the conditions prescribed by the Act. The Committee entered very fully into the investigation of that subject, and they had ultimately come to a conclusion upon it at variance with the principle on which the Bill as originally introduced was founded. They agreed to recommend the abolition of the annual deductions, but they at the same time recommended that the salaries of the existing civil service should be revised, with a view to reduce them to an amount corresponding with the annual abatements. There were, besides, some further alterations in the Bill, partly affecting the scale of remuneration, and partly affecting other subjects, so that the measure, as it came out of the Committee, differed in some very material respects from the measure as it had been proposed by him at the commencement of the Session. He felt fully the justice of the appeal made to him by many Members, that it would not be fair to the House to enter into a consideration of that question before

they were put in possession of the very detailed evidence which had been taken before the Committee with respect to various parts of the subject, and more especially with respect to the question of the annual abatements from the salaries. He readily admitted that that subject materially affected not only the feelings of the members of the civil service, but also the efficiency of that service; because that efficiency would naturally be impaired by the prevalence of discontent among those members. He, therefore, felt that it would be improper on his part to force the consideration of the Bill at that moment on the House; and he thought it desirable that its discussion should be postponed till a future occasion. He should, however, observe, that as he had been aware that the Bill in its altered shape was by no means acceptable to many members of the civil service, he had thought it his duty, considering the extent to which it had been changed by the Committee, to lay it before the House in order that the House might have an opportunity, if it should be thought proper, of considering its provisions. He had felt himself called upon to act in some measure as the organ of the Committee which had altered the Bill; but as it appeared to be the wish of the House that the measure should not be proceeded with at present, he would at once consent to its withdrawal, and he should conclude by moving that the Order for its committal be discharged.

MR. SEYMOUR FITZGERALD said, he thought the right hon. Gentleman misunderstood one important recommendation of the Committee. The right hon. Gentleman said, the Committee had recommended that the salaries of the civil servants should be revised with a view to their reduction by an amount corresponding with the annual abatements. That was not, however, as he (Mr. S. Fitzgerald) understood the recommendation of the Committee. They had only recommended that the salaries should be revised, because they had not thought it desirable that the civil servants should at one swoop be made a present of some £70,000 or £80,000 a year. The Select Committee wished to have the salaries revised, but to have them revised with a due regard to the fair claims of the members of the service. The Bill had no doubt been altered in the Committee, but the right hon. Gentleman the Chancellor of the Exchequer seemed to have varied in his views upon the sub-

The Chancellor of the Exchequer

ject, and it was only by his casting vote that the Committee had agreed to change one of the provisions in the right hon. Gentleman's own measure.

SIR FRANCIS BARING said, that a difference of opinion between the Members of the Committee on such an important point was sufficient proof of the propriety of withdrawing the Bill. He wished, however, to make one suggestion to the Chancellor of the Exchequer. His right hon. Friend was aware that the question, whether the deductions did not amount to a great deal more than was commensurate with the advantages given to the civil servants, had been before the Committee over and over again, and had been referred by them to two eminent actuaries. Those gentlemen stated they had not sufficient materials for a decision, and in consequence of the view taken by the Committee they were directed not to proceed with their calculations. He would suggest, therefore, that as the Bill was postponed, those Gentlemen should prosecute their inquiry, and get at the truth of the question. The civil servants would then see how far their complaints were well founded.

SIR STAFFORD NORTHCOTE said, he begged to express his concurrence in the course taken by the Chancellor of the Exchequer in withdrawing the Bill; if they proceeded without having the evidence and Report before them, the Bill would appear to be the Report of the Committee, which it was not. He hoped measures would be taken as soon as possible to relieve the civil servants from the agitation and uncertainty in which they were placed in regard to a question of so much importance to them.

VISCOUNT MONCK said, he wished to say a word as to the decision of the Committee with regard to the annual deduction. The Member of the Committee who proposed the Resolution was decidedly of opinion that all the salaries should be reduced in proportion to the abatement, but he had used the words "revised, with a view to reduction," in order to enable the Government to deal with any case of particular hardship that might arise.

Order discharged.

LEASES AND SALES OF SETTLED ESTATES BILL.

Order for Committee read.

House in Committee.

Clauses agreed to.

MR. HADFIELD said, he wished to

propose, after Clause 19, the following clause :—

“ The Court shall be at liberty to grant any application under this Act in any case where the applicant, or any party entitled, has previously applied to either House of Parliament for a Private Act to effect the same or a similar object, and has not obtained such Act.”

His object was to prevent the decisions of Parliament from being overruled by the Court of Chancery.

Clause *brought up*, and read 1^o.

MR. MALINS said, he hoped the Committee would reject the clause, because it sought to exclude one individual from the benefits which the measure would confer on all the rest of Her Majesty's subjects. The object of the advocates of the clause—although they had not the manliness to avow it—was to restrict Sir Thomas Maryon Wilson in regard to his Hampstead estate; and the words proposed would reach that gentleman, and that gentleman only, quite as effectually as though they had specified him by name. The circumstance that Sir Thomas Wilson had applied for a Private Act and been refused it was seized upon as a means of fixing him, a proceeding no less arbitrary or capricious than if they had hit upon that gentleman's stature, and declared that no man of that particular height should enjoy the advantages of the Bill. The covert design of the clause was, no doubt, to protect the public against the enclosure of Hampstead Heath—a thing, if possible, to be avoided; but, if the heath was common land, it could not be enclosed; and if it were private property, which it was desirable should be kept as it is for the use of the inhabitants of the metropolis, let the public purchase it. Certainly, nothing could be more unjust than that Sir Thomas Wilson, merely because he had an estate in a very agreeable situation, should be deprived of the power over it which all other owners of land were to be permitted to exercise. The Bill, although one of the very highest importance, had passed rapidly through the House, because its benefits were to be extended without distinction to all Her Majesty's subjects; and why, at the last moment, was the discussion to be embittered and the impartiality of the measure blemished, by the invidious exclusion of one individual from its benefits? The property belonging to Sir Thomas Wilson was not built upon, because, by the will of his father, he had not the power of granting leases; and when he applied to Par-

liament to confer that privilege upon him, it was denied by reason of a prejudice respecting the enclosure of Hampstead Heath. That privilege would be extended to him in common with every other proprietor by the provisions of the Bill, unless the very objectionable clause of the hon. Member for Sheffield was carried. It was a delusion to suppose that the proposition of the hon. Member would protect the public. Sir Thomas Wilson was not a very young man; he was the tenant for life, and, in the course of nature, would soon be succeeded by the tenant in tail, who could easily obtain the fee simple, and then snap his fingers at their endeavour to prevent him from granting leases.

LORD ROBERT GROSVENOR said, the Lord Chancellor had no objection to the clause. The noble and learned Lord had said, his objection was not to its principle—

THE CHAIRMAN said, he must remind the noble Lord, that the course he was taking was irregular.

LORD ROBERT GROSVENOR said he could, at all events state, that the opinion of the Lord Chancellor was in favour of the clause in principle.

MR. MALINS said, he rose to order. Surely it could not be regular thus to appeal to the opinions of noble Lords with respect to a Bill under discussion.

LORD ROBERT GROSVENOR said, he thought there was no danger of that House being brought into collision with the House of Lords by the adoption of the clause, for he was able to state that not only the Lord Chancellor, but Lord Campbell and Lord Brougham were in favour of the clause. The Earl of Derby had likewise stated, that he did not consider this the case of a Private Bill at all. He believed, therefore, that if the clause were sent up to the House of Lords they would be willing to accept it. The hon. and learned Member for Wallingford (Mr. Malins) seemed to imagine that his (Lord R. Grosvenor's) constituents wished to inflict an injury upon Sir Thomas Wilson by obtaining his property for less than it was really worth, but he could assure the hon. and learned Gentleman that they were desirous of paying its fair value. Arrangements were now in progress which he (Lord R. Grosvenor) hoped might lead to the purchase of the property upon just and equitable terms. All his constituents objected to was, that the House should, by passing a retrospective measure, give a fictitious

value to the property in question. He, therefore, hoped the hon. and learned Solicitor General would assent to the adoption of the clause. As regards the principle of the clause, it could not possibly be impeached, for surely the Court of Chancery ought not to be permitted to reverse the decision of Parliament.

THE SOLICITOR GENERAL said, that, when a similar measure to the one now under discussion was introduced last Session, he was informed that strong opposition would be offered to it because it would afford facilities to Sir Thomas Wilson to accomplish objects which he had previously been unable to attain. He (the Solicitor General) was, however, enabled to allay the apprehensions which were felt upon the subject, and he stated then, as he would state now, that, while he entertained the strongest objection to the introduction of any clause in a public Bill which amounted to a *privilegium* in the case of a particular individual, he knew no reason why any particular individual should be exempted from the operation of such a measure. He stated, also, that if the House of Commons approved the principle that propositions which Parliament had deliberated upon and rejected should not be reviewed by a court of justice, that principle should be embodied in the Bill, and that any Member who supported such a principle ought to be able honestly, candidly, and sincerely, to pledge himself that he believed the principle a just one, and that he did not advocate the introduction of the clause with the view of accomplishing any remote or sinister object. The notion that the Bill would give Sir Thomas Wilson the opportunity of doing what he had hitherto been unable to do was altogether idle and unfounded. Hampstead Heath would not be in any danger if the Bill were passed; but, if Sir Thomas Wilson had any private property adjoining the Heath which he could not now lease for building purposes, he would be enabled by the Bill to apply to the Court of Chancery for power to grant such leases. Why should the fact of Hampstead Heath being adjacent to Sir Thomas Wilson's property deprive him of that right? There might be many other cases in which applications had been made to Parliament, and such applications had been referred to the Judges; for, when a Private Estate Bill was proposed, it was generally referred to the Judges for their opinion, and if the Judges had reported against such applications, and they had

Lord Robert Grosvenor

afterwards been rejected by Parliament, he thought it reasonable that the question should not be re-opened. If hon. Members were of that opinion, then they might vote for the insertion of the clause; but, unless they could conscientiously say that they supported it on that ground, the clause ought not to form part of the Bill. In any case he thought the clause could not stand as it was proposed by the hon. Member for Sheffield, because it simply rested on the fact of a Bill having been brought in, and not obtained. The clause, if inserted at all, ought, instead of the words, "has not obtained such Act," to read thus, "and such application has been rejected on its merits, or has been awarded against by the Judges to whom the Bill may have been referred." He hoped, however, the hon. Member for Sheffield would not persevere in the clause. He did not believe the Court of Chancery would ever grant an application that had already been adjudicated on by Parliament through the medium of a reference to the Judges.

MR. WIGRAM said, he thought that, if the provisions of the Bill were correct, they should not be swayed by the circumstance that they might possibly affect the case of a particular individual. The object of the Bill was to substitute applications to the Court of Chancery for applications to Parliament, and, though he approved generally of the Bill, he knew the difficulties with which such applications to the Court of Chancery were beset—difficulties which rendered it almost impossible for the Judge to come to a sound judgment regarding them. He would, therefore, vote for the clause, should the hon. Gentleman press it to a division.

MR. MALINS said, the question was brought to a very narrow issue. The House of Lords had given up their privileges, and consented to vest them in the Court of Chancery, and the point was, would the House of Commons do the same?

MR. WARNER said, he considered the Bill as a measure attacking private property. It was an attempt, aided by a newspaper cry, to obtain Sir Thomas Wilson's property with or without his consent.

MR. HENLEY said, his hon. and learned Friend (Mr. Malins) did not say one word as to the general effect of the clause, but argued it solely on the ground of its application to a gentleman whose name

had been drawn into the debate. Everybody, however, knew that the application of the clause would be much wider. Those Estates Bills were always rejected by the House of Lords, and the clause would apply to any such case. If he thought it could affect some one individual only the clause would not have his support, but it was a general clause, as the hon. and learned Solicitor General had clearly shown to the Committee. If it caused inconvenience to A or B, it could not be helped. It had been whispered about, though it could not of course be true, that the Bill would never have been heard of had it not been for the rejection of a private Bill. Such things were said, but no one of course could believe it. He hoped the clause, as amended by the hon. and learned Solicitor General, would be assented to by the Committee.

SIR WILLIAM HEATHCOTE said, he was satisfied with the statement of the hon. and learned Gentleman the Solicitor General—that there would be no danger of the Court of Chancery, within a short time, granting an application which had been refused by Parliament. It was a monstrous proposition to maintain that, because a person had at any time in his life applied to Parliament for a private Bill, and been refused, therefore he should for ever afterwards be precluded from applying to the Court of Chancery, under a general Act, although circumstances might have entirely changed. Such a limitation, if adopted, might in many cases defeat the object of the Bill. If any doubt were entertained as to whether the Court of Chancery would or would not, immediately after the passing of the Bill, reverse any decision to which Parliament had already come, then, no doubt, a restriction as to time might be introduced; but if the hon. and learned Solicitor General felt confident, as he had professed himself to be, that no application under the same circumstances would be granted in one place which had been refused in another, there could be no good reason for adopting the clause.

MR. BARROW said, he must maintain, notwithstanding what had been said on the other side of the House, that in dealing with this question they could proceed upon general principles. He knew nothing of the individual to whom allusion had been made, nor, so far as he was aware, had he ever been on Hampstead Heath, unless, indeed, he had passed it on the top of a mail-coach many years ago. He therefore

felt no personal interest in the matter one way or the other, but, upon general principles, he held that Parliament had a right to lay it down as a rule that, having itself already refused an application for a private Settled Estate Bill, no inferior authority should be at liberty to reverse its decision. Circumstances could not possibly vary, for the circumstances upon which Parliament had decided in any given case were those in which the property had been settled; but, supposing that a change of circumstances did take place, to whom should a renewed application be made? Surely to the persons who had decided in the first instance. They were the parties to whom the alleged change of circumstances should be submitted, in order that they might have an opportunity, if they thought fit, of altering their decision. Upon those grounds he was prepared to vote for the clause.

MR. NAPIER said, that the arguments which had been advanced in favour of the clause, if sound, would, in his opinion, be fatal to the principle of the Bill. But he was not aware that any person who had applied to Parliament for a private Bill and been refused was thereby debarred from making a second application. Where Parliament had refused it would be proper, generally speaking, for the Court of Chancery to object also; but, if it were right to empower that Court to deal with one case, why should it be prevented from deciding in all? He regarded the Bill as one of great importance. It was to extend to Ireland; and in that country he knew many properties which could not be used with advantage on account of the limited leasing powers. He should certainly vote against the proposed clause.

MR. HADFIELD said, he thought that the Amendment proposed by the hon. and learned Solicitor General would be a great improvement to the clause, and he would, therefore, be willing to adopt it.

MR. WIGRAM said, he would suggest that the hon. Member should also add to his clause:—"And where no material alteration in the circumstances under which such Bill was refused has since occurred."

MR. HEADLAM said, that the more he listened to the discussion the stronger became his objections to the clause. If they could not trust the Court of Chancery, they ought not to pass the Bill.

SIR DENHAM NORREYS said, he did not believe there was a single Gentleman in the House, with the exception,

perhaps, of the hon. Member for South Nottinghamshire (Mr. Barrow), who was so simple-minded as not to see that the real object of the clause was to deprive one individual of the right of using his property as he pleased. They wished to preserve Hampstead Heath, but were in reality preventing Sir Thomas Wilson from using another property at least a mile from the Heath.

Motion made, and Question put, "That the clause be now read a second time."

The Committee *divided*: — Ayes 84; Noes 42: Majority 42.

THE SOLICITOR GENERAL said, he wished to move a clause to the following effect—

"That the Court of Chancery shall not be at liberty to grant any application which a Committee of the House has rejected or reported against."

MR. NAPIER said, he wished to propose an Amendment upon the hon. and learned Solicitor General's clause, namely, after the word "rejected," to add, "on its merits."

Clause *agreed to*.

MR. HADFIELD moved the addition of the following clause—

"Before making any application to the Court under this Act, the party intending to apply shall give notice of such intended application, by advertisement in the *London Gazette*, three calendar months before making such application, and by advertisement to be inserted once every week during such three months in a London daily paper, and also in a country paper circulating in the county where the estate is situated, and by printed handbills posted on the most usual and conspicuous places in the same county; and any person or body corporate, whether interested in the estate or not, may apply to the Court of Chancery, by Motion for leave to be heard in opposition to any such application, and the Court is hereby authorised to permit such person or corporation to appear and be heard in opposition to any such application, on such terms and in such manner as it shall think fit."

The clause, with certain verbal Amendments, *agreed to*.

The House resumed.

Bill *reported*, as amended.

VICE PRESIDENT OF COMMITTEE OF COUNCIL ON EDUCATION BILL.

Order for Committee read.

House in Committee.

Clause 1.

SIR GEORGE GREY said, he proposed to fill up the blank left for the salary of the Vice President with the sum of £2,000. The Vice President would be a Member of the Privy Council, and by analogy with

Sir Denham Norreys

other offices it was thought that the salary ought to be £2,000 a year.

MR. HENLEY said, he thought that, under the circumstances, the salary was enormous. When the Bill was brought in the Government had an Education Bill in the other House of Parliament, and there was an extensive scheme in that House proposed by a noble Lord the Member for London (Lord J. Russell) which, if carried out, would have required constant supervision of extensive machinery at headquarters. That large scheme and the smaller scheme of the other House had equally miscarried, and he did not consider that there was any occasion to set up an expensive Minister who would only have to discharge a moderate amount of duty.

SIR GEORGE GREY said, he must defend the proposal, on the ground of the amount of duty which the Vice President would have to perform; for the office, if it were to be properly filled, would require a person of some official experience holding the rank of a Privy Councillor, who, having a seat in that House, would be able to give any information that might be required on the subject of education. Having regard also to the amount of other salaries, he did not see how a lower amount could be proposed.

MR. HENLEY said, he wished to guard himself against expressing any opinion as to the amount of salary. He directed his observations against any salary being paid at all. At that late period of the Session, when so many Members had left town, there was no opportunity of discussing such an important subject in a full House. The Bill had been for many months on the paper, and there did not seem now to be so much prospect of the national system being adopted as there was eighteen months ago. As no inconvenience would result in the recess, he should prefer to have the subject stand over.

MR. HADFIELD said, he would like to take the sense of the Committee upon the suggestion of the right hon. Gentleman. He would, therefore, move that the Chairman report progress; and if he did not succeed in that, he should subsequently move that the salary be reduced to £1,000. The sum of £2,000 a year was enormous when they considered that a County Court Judge would only receive £1,500.

VISCOUNT PALMERSTON: Being aware, Sir, of the sentiments entertained by the hon. Gentleman the Member for Sheffield (Mr. Hadfield) on matters of this

sort, I feel that the course which he now proposes to adopt is in perfect conformity with his opinions. The Committee, however, ought to recollect that, although this measure has been proposed by Her Majesty's Government, yet it has been pressed on them by parties on both sides of the House. Indeed, I know of nothing on which there has been a greater degree of consent than the advantages of appointing some person who would be responsible for the education of the country, and I, therefore, hope that the Committee will not by its vote sanction any attempt to defeat the Bill, as it would be entirely at variance with what has been understood to be the strong opinion of hon. Members on both sides of the House as expressed not only during the present Session, but also last year, when they urged on the Government how important it was that there should be in this House some official person responsible for the education of the country, and ready to give the House every necessary explanation in reference to it. With regard to the time, the hour was not so late but that those hon. Members who had objections to the measure might have ample opportunities of stating those objections.

MR. HEYWOOD said, he was aware of the enormous quantity of work which devolved upon the President of the Council and the Secretary of the Education Committee, and believed there would be ample employment for the new officer whom it was proposed to appoint. He also thought the appointment of a lay Vice President, to represent in that House the secular view, would be an advantage as tending to diminish the ecclesiastical supremacy which at present pressed upon the cause of education. The Oxford Commission would expire in a year, and it was desirable to have some authority to attend to the proceedings of that University.

MR. NEWDEGATE said, he quite agreed in what had been said by his right hon. Friend (Mr. Henley), and should oppose the measure. He should very much dread the introduction of political bias into the management of the education of the youth of the country. He did not think that a Vice President selected, as such an officer would be, from the Government members, would have sufficient weight in the Council to prevent rash changes in the education system. There could be no greater misfortune than the introduction of political bias into the Com-

mittee of Council; it would be most detrimental to education; and, believing that the Bill would lead to such calamitous results he should vote against it.

SIR GEORGE GREY said, that the Committee of Council of Education consisted exclusively of members of the Government for the time being; and the object of the present Bill was merely to individualise the duties, and make one person responsible to that House for the execution of those duties.

MR. NEWDEGATE said, he could not imagine a stronger objection to the measure than that afforded by the fact that it would so individualise the responsibility. The vesting of the responsibility to one person holding particular opinions was pregnant with danger to the educational system, particularly in its connection with the Church.

SIR STAFFORD NORTHCOTE said, he thought it would be much more convenient to have one recognised member of the Committee of Council in that House to act as a Minister of Education. The Secretary of State for the Home Department could not make himself sufficiently acquainted with the details of educational matters to give satisfactory answers to the questions of hon. Members on those subjects. He, however, thought that a salary of £1,500 a year would be sufficient for the Vice President.

Motion made and Question put, "That the Chairman do report progress and ask leave to sit again."

The Committee divided:—Ayes 30; Noes 91: Majority 61.

Motion made and Question proposed, "That the blank be filled with £2,000."

MR. THORNELLY said, he should move that the salary be £1,200 only. He did not think that it ought to be greater than the salaries of such officers as County Court Judges.

MR. HADFIELD said, that the Bill was an ill-judged one. The duties of the Vice President were also ill-defined, and they were taking a leap in the dark. He thought that £1,200 was quite sufficient.

MR. MOWBRAY said, he would suggest that the salary should be £1,500.

SIR GEORGE GREY said, it was very desirable that the office should be held by a person of official experience, and for that reason it had been thought requisite to name £2,000. The Bill, however, did not fix the salary at that amount, but merely laid it down as a maximum, which

was not to be exceeded. The salary would come every year under the revision of Parliament.

MR. CHEETHAM said, he thought that as the creation of the office was an experiment £1,200 was well enough to begin with.

MR. SEYMOUR FITZGERALD said, the office was one of the highest importance, and it would not, in his opinion, be judicious to name a salary which would make it unworthy of the acceptance of any person holding the rank of a Privy Councillor.

SIR WILLIAM JOLLIFFE said, though he was opposed to proceeding with the Bill at so late a period of the Session, he was not willing to reduce the salary so low as to make it unlikely that it would be accepted by a person of high position and experience.

MR. SERJEANT SHEE said, he thought that £2,000 a year was not a shilling too much.

MR. E. BALL said, that until they had arrived at some clear idea of what was to be the national system of education which they were to adopt, it would be unwise in his opinion to appoint an officer with so large a salary.

MR. VERNON SMITH said, that the Government had almost pledged itself last Session that a Minister of Education should be appointed. Under all the educational schemes proposed, such a Minister was considered essential. He would point out the advantages to the country and the Committee of the appointment of a President of the Poor Law Board. At one time, all poor-law questions were answered by the Secretary of State. The salary was fixed by the case itself, as no Privy Councillor holding office had a salary of less than £2,000 a year. The case of the office of Judge of the County Courts was not applicable, as that office was a permanent one.

MR. HENLEY said, that it was accidental that the President of the Council happened not to be in that House, otherwise he would be the person to answer educational questions. As he did not know what the duties of the proposed officer would be he could not determine what the salary ought to be, and should vote against all salary. There was no complaint of the way in which the work was done at present.

Question put, "That the blank be filled with £2,000."

Sir George Grey

The Committee *divided*:—Ayes 78: Noes 47; Majority 31.

MR. HADFIELD said, he wished to propose the following proviso—

"Provided always that the duties of the said Vice President shall extend to the superintendence of grants of money for educational purposes in all parts of the United Kingdom and the application thereof, and the reporting of the benefits which may from time to time result therefrom."

SIR GEORGE GREY said, he must oppose the proviso, which, if carried, would create an unnecessary interference with the Irish educational system, admirably managed already.

Proviso *negatived*.

The House resumed; Bill *reported* as amended.

CHARITIES BILL.

Order for Committee read.

House in Committee.

Clause 1.

MR. MOWBRAY said, he should move the substitution of July for September. In 1853, the House had been promised that the Roman Catholic charities should be only temporarily exempted from the operation of the Act, but that promise had not hitherto been redeemed. The right hon. Gentleman (Mr. Baines) had, however, pledged himself to introduce a measure of this kind next Session, and the object of the Amendment was, that the right hon. Gentleman might redeem his pledge early next Session, when there would be a full attendance of Members.

Amendment proposed, in page 2, line 1. to leave out the word "September," and insert the word "July" instead thereof.

MR. BAINES said, he could not accede to the proposal. The House had determined in favour of a Continuance Bill, but he had never heard of one extending only over ten months. How could he answer for any delays which might take place in carrying the Bill through this and the other House next Session? Yet if it had not received the Royal Assent by the 1st of July, all those charities would, from that time, if the hon. Gentleman's Amendment passed, be completely unprotected.

MR. WIGRAM said, he was of opinion that the Bill ought to be general, and that all exemptions were objectionable. He was persuaded that the popular feeling would be strongly opposed to the continued exclusion of Roman Catholic charities from the operation of the measure.

SIR GEORGE GREY said, that it had

been admitted on the previous day, by the hon. Members for Oxfordshire (Mr. Henley) and North Warwickshire (Mr. Spooner) that there were special circumstances affecting Roman Catholic trusts which would render it undesirable that they should be included in the Bill in its present form. After the pledge which had been given by his right hon. Friend the Chancellor of the Duchy of Lancaster to bring in, early next Session, a Bill which should include Roman Catholic charities, he trusted that no objection would be made to the continuance of the present Bill for another year.

MR. MOWBRAY said, he would adduce the case of the Crime and Outrage (Ireland) Act as a precedent for the continuance of an Act of Parliament for a shorter period than one year.

VISCOUNT PALMERSTON said, that the special reason for continuing that Act for ten months was, that Irish Members who wished to discuss it could not be present at the end of the Session. There was no such reason for continuing the measure before the House for ten months instead of a year.

MR. HEADLAM said, he should support the Amendment on the ground that it was objectionable to continue partial legislation upon the subject, and that the Government had given a pledge to introduce a general measure. Having, in his capacity of Chairman of the Mortmain Committee, examined into the circumstances of many of the Roman Catholic charities, he believed that there was no reason whatever for their exemption, and that they would not suffer from being subjected to the Board as it was now constituted.

MR. HENLEY said, that there was nothing magical in twelve months any more than ten, and, as the present Bill was a measure which would require a good deal of legal discussion, it would be desirable to bring it on before learned Gentlemen went on circuit, which they did early in July.

MR. BAINES said, he could only repeat that he would bring in a general measure upon the subject early in the next Session, and he hoped that there would be ample opportunities of discussing it before July. That he had promised to do, and he had no doubt that he should be able to fulfil his promise; but he wished to avoid involving himself in a pledge that the Bill should pass before July.

MR. NEWDEGATE said, he was clearly

of opinion that the duration of the Bill should be limited to next July.

MR. KINNAIRD said, he should support the Amendment, because he had a distinct recollection that the noble Lord the Member for the City of London pledged himself, when the Bill was first introduced, that within two years he would bring in another measure to meet the case of the Roman Catholic charities.

Question put, "That the word 'September' stand part of the clause."

The Committee *divided*: — Ayes 58; Noes 46: Majority 12.

House *resumed*.

Bill *reported* without Amendment.

JOINT-STOCK BANKS BILL—ADJOURNED DEBATE.

Order read, for resuming Adjourned Debate on Question [24th April], "That Mr. Speaker do now leave the chair."

Question again proposed.

Debate *resumed*.

MR. VANCE said, he should move that the Bill be committed that day three months. The Bill proposed to do away with a security granted to shareholders by the Banking Act of 1844, which required that a change should take place in the direction of banks from time to time. That provision of the law had worked no inconvenience in the case of the banks of England or Ireland; on the contrary, it had proved a great safeguard in both instances. The Act of Sir Robert Peel did not compel directors to retire by rotation, for the old and experienced directors might remain, while the younger ones could retire. The hon. Baronet opposite (Sir J. Shelley), however, the framer of the Bill, would alter that, and allow all the directors to retain their seats year after year—there were, in fact, to be no retirements at all. Having seen the disasters to which banks were exposed under the management of self-elected directors in the case of the Tipperary Bank, and also in that of a Yorkshire bank with which he was acquainted, he should call upon the House not to permit such a dangerous innovation, but to let the law remain as it was.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

SIR JOHN SHELLEY said, he would

only observe that the Bill was not intended to do away with the system of the directors retiring, the only change which it would effect was to render those who retired re-eligible, which the existing law did not allow.

Question, "That the words proposed to be left out stand part of the Question," put, and *agreed to*.

Main Question put, and *agreed to*.

Bill *considered* in Committee.

House resumed.

Bill *reported*, without Amendment.

DWELLINGS FOR THE LABOURING CLASSES (IRELAND) (No. 2) BILL.

SIR WILLIAM SOMERVILLE said, he rose to ask for leave to introduce a Bill to extend the Act to facilitate the improvement of landed property in Ireland, and the Acts amending the same, to the erection of improved dwellings for the labouring classes in Ireland. His object in introducing the Bill at that advanced stage of the Session was, that its merits might be canvassed during the recess.

Motion *agreed to*.

Bill *ordered* to be brought in by Sir WILLIAM SOMERVILLE and Mr. GEORGE ALEXANDER HAMILTON.

Bill read 1^o; to be read 2^o on this day three months.

The House *adjourned* at One o'clock till Monday next.

HOUSE OF LORDS,

Monday, July 21, 1856.

MINUTES.] PUBLIC BILLS.—1^a Sheep, &c. Contagious Diseases Prevention; Hospitals (Dublin; Burial-grounds (Ireland); Lunatic Asylums (Superannuations) (Ireland); Joint-Stock Banks; Criminal Procedure; Accessories, &c. Offences of a Public Nature; Treason and Offences against the State; Forgery; Malicious Injuries to Property; Offences against Property; Offences against the Person.

2^a Consolidation Fund (Appropriation); Income and Land Taxes; Stamp Duties; Racehorse Duty; Coast-guard Service; Corrupt Practices Prevention; General Board of Health Continuance; Militia Pay; Cursitor Baron of the Exchequer; Lunatic Asylums Act Amendment; Deeds (Scotland); Judicial Procedure, &c. (Scotland); Criminal Justice; Poor Law Amendment (Scotland); Court of Appeal in Chancery (Ireland).

3^a Court of Chancery (Ireland) (Receivers); Coatham Marriages Validity; Indemnity; Nuisances Removal, &c. (Scotland); Episcopal and Capitular Estates Continuance; Customs (No. 2); Railways Act (Ireland) 1851, Con-

Sir John Shelley

tinuance; Turnpike Acts Continuance (Ireland); Bishops of London and Durham Retirement.

ROYAL ASSENT—Church Building Commission; Court of Exchequer (Scotland); Saint Sepulchre's Manor (Dublin); Mercantile Law Amendment (Scotland); Registration of Voters (Scotland); Revenue (Transfer of Charges); Survey of Great Britain, &c.; Drainage (Ireland); Grand Juries (Ireland); Statutes not in Use Repeal; Dwellings for Labouring Classes (Ireland); Aldershot Camp; Incumbered Estates (Ireland); Prisons (Ireland); Police (Counties and Boroughs).

REGISTRATION OF TITLE DEEDS—QUESTION.

LORD LYNTHURST said, he had a question to put to his noble and learned Friend on the woolsack in reference to the registration of title deeds. Two or three years ago a Bill was introduced by his noble and learned Friend for the registration of title deeds. It was referred to a Select Committee, and afterwards came down to their Lordships' House, where it was passed by a large majority, and then sent down to the other House. What subsequently became of it he did not know, except that it had not passed into law. It appeared, however, that a Commission had been subsequently appointed to inquire into the subject; and the questions he wished to ask his noble and learned Friend were—first, whether that Commission had made a Report?—secondly, if not, what was the reason of the delay?—and, thirdly, whether there was any probability of a Report being made? He could not sit down without expressing in the strongest terms his regret, that various important measures which had been introduced into the other House of Parliament, and various other important measures which had been sent down from their Lordships House, had, during the present Session, been either lost or abandoned. He never recollected, in any Session, so wholesale a destruction of measures.

THE LORD CHANCELLOR said, the answer to the first question was, that the Commission had not made a Report. That Commission was appointed under the following circumstances. The Registration of Titles Bill passed that House with very general, though not universal, concurrence, but it did not get a very favourable reception in the other House; it was referred to a Select Committee, who reported against it, but thought that a different plan for the registration of titles would be expe-

dient, and recommended that a Royal Commission should be appointed to consider the whole subject. The consequence was, that in the following year—1854—a Commission was appointed to look into the subject; as he had already stated, they had not yet made their Report. With regard to the probability of their reporting, he might state that he had communicated privately with the Solicitor General and others who were on the Commission, and they assured him that the Commission was looking very attentively into the subject; but that they found, as he confessed he had anticipated, a great deal more difficulty in devising some tangible plan than they at first imagined. He believed, however, that they would make a Report, and he understood also that they had embodied the plans which they recommended in the shape of a Bill, which would be laid on the table of the House. He had himself prepared the heads of a Bill for a very modified registration, but he was stopped at an early period of the Session from introducing it, by the intimation that the Report of the Commission suggesting a more extended scheme would shortly be laid before Parliament; and, unless he got that Report during the recess, he should unquestionably introduce the smaller measure. With regard to the remark of the noble and learned Lord respecting the withdrawal of Bills, he shared in the regret he had expressed as to the abandonment of several important measures; but, at the same time, he was prepared to show that a considerable number of very useful ones had been passed in the course of the Session.

THE RAJAH OF COORG—QUESTION.

THE MARQUESS OF CLANRICARDE wished to put a question to the Government with respect to the treatment of the Rajah of Coorg by the East India Company. The Rajah was a prisoner of State at Benares, and some time ago he applied to the Company for leave to come to England chiefly for the purpose of superintending the education of his daughter, whom he wished to be brought up as a Christian. He obtained leave of absence for one year; at the expiration of that period he applied for an extension of leave, but it was positively refused by the Company, and as he did not return they stopped that portion of his allowance which he received in this country, the rest being applied to the support of his relatives at

Benares. A more tyrannical and unjust proceeding could not well be imagined. The Rajah's medical advisers had told him that this country was more healthy for him than India; but the East India Company had sent their physician to examine him, and he said there would be no danger in his returning to India by a sea voyage, at a certain time of the year. One very important fact was, that the Rajah was prosecuting a suit against the East India Company in the Court of Chancery, and that they were demanding his return to India at the very time when his presence in this country was of the utmost importance. He (the Marquess of Clanricarde) could scarcely believe that the Government knew anything of these circumstances. He wished to ask the noble Duke (the Duke of Argyll) what were the reasons of the Company for insisting on this nobleman's return to India, and why they had withheld the allowance which they had contracted to give him while in this country?

THE DUKE OF ARGYLL said, the noble Marquess seemed better informed upon the details of the Rajah's case than he was, for he had not seen any of the papers, and was only acquainted with the general state of the facts. He believed that the Board of Control had no power whatever to compel the East India Company to pay the allowance which they had withheld from the Rajah. The noble Marquess had stated the facts correctly, and by his statement that the Rajah was a State prisoner, he implied that the Company had power to require the return to India of this prince, who was considered in that country to be a prisoner at war. The Company could either have given or withheld leave of absence, and therefore it was not an act of tyranny on their part to refuse to allow him to remain in England beyond the period which had been specified. He understood the local Government of India considered it was objectionable that native princes should remain permanently in England, expending here the revenues which were given to them by the East India Company. The noble Marquess had insinuated that the object of the Company in demanding the Rajah's return to India was to impede the suit which he was carrying on against them; but he could not conceive that they were actuated by any such reason. It was perfectly obvious that by the employment of lawyers he could prosecute that suit as well in India as in England.

THE EARL OF ELLENBOROUGH rose to confirm the accuracy of the noble Duke's statement, that the Board of Control had no power whatever to compel the Court of Directors to pay the Prince the sum they agreed to give him during the year he had leave of absence. The noble Marquess had stated the facts of the case correctly, and he (the Earl of Ellenborough) must say that, taking into consideration all the circumstances, the conduct of the Court of Directors, in refusing payment to the Prince, was very ungenerous and unwise; but, at the same time, he agreed with the noble Duke that it was neither for the advantage of native princes, nor, generally, for the advantage of the Government of India, that those princes should come and reside in this country in order to prosecute their claims. He had himself privately advised the Rajah of Coorg, four years ago, to return to his own country, being quite confident that it would be more to his own credit and comfort to rest in the midst of his family at Benares, where he was very much respected, than to reside as an individual unknown in this country; and he now publicly renewed that advice. As to the suit against the East India Company for the recovery of his property, he could not comprehend how a question of that kind between two Sovereigns—for such they were—could be made the subject of inquiry before the English Court of Chancery; and he believed it would be found, in the course of the investigation, that the property neither belonged to the Court of Directors nor the Government of India, nor the Rajah, but to the Crown, and that it had been misappropriated by the Government of India. If this Prince were dispossessed of his property in consequence of military operations, it clearly, as the prize of war, belonged, not to the Government of India, but to the Crown; and if the Crown asserted its right, the Rajah would be deprived of all excuse for not returning, and the Company of any reason for conducting themselves towards him in a manner most ungenerous and uncourteous. He should, therefore, strongly recommend the noble Duke to suggest to the law officers of the Crown to inquire into the matter.

SUMMARY DISMISSAL OF THE MILITIA IN IRELAND—QUESTION.

VISCOUNT DUNGANNON rose to ask the Secretary of State for War—Whether he had received any official communication

of the Dismissal of fifty-seven men of the City of Limerick Artillery Militia, from Youghal, on the 5th instant, who were suffered to depart, many of them, with scarcely any clothing, and who had to proceed all the way to Limerick with only six-pence allotted to each individual? And, also, Whether it was correct that 240 men were discharged on the 10th instant from the Curragh, belonging to the Mayo Rifles, to find their way home, with only one day's pay allotted to them? It appeared, that on the 5th of July notice was given to the Limerick Artillery Militia, that such as were disposed to avail themselves of the permission, might at once proceed to their homes. About fifty-seven men availed themselves of the permission, and they were accordingly suffered to go home; but in what manner? They were deprived of their clothing, and given sixpence each, to enable them to proceed from Youghal to Limerick. On their way to Limerick they were obliged to pass the night under haystacks or in open fields, and they reached that city in a state of destitution and nakedness. It was also stated that on the 10th of July 240 men were dismissed at the Curragh from the Mayo rifles, and sent on their journey homewards with only one day's pay allotted to each of them. He had that morning learnt further that 240 men of the Queen's County Militia had been dismissed with much the same amount, and entirely deprived of their clothing, and consequently had to go about begging for raiment. It might be replied that all this was strictly according to regulations; but if such were the regulations they reflected very little honour on the country, and very little credit on the Government; and though he admitted that distress did not justify crime, yet he thought that if these men had committed any thefts, the moral responsibility would rest on those who had driven them to that course of conduct. They could not forget the circumstances under which the militia had been embodied. They would not forget the alacrity and readiness which every class of persons had shown to serve the country during the late war; and he must ask was this a fair return for such alacrity and such readiness, and for such faithful services? It might be said that these men could have applied to the parishes through which they had passed; but if they had done so they would have been sent to the next union-house; and he must ask whether the union-house was the place for

those who had had the honour to wear Her Majesty's uniform? They knew not, in the present aspect of Europe, how soon the services of the militia might again be required; but was it likely that such treatment as this would ultimately tend to the advantage of Her Majesty's service and to the interests of the State in general? The Irishman was, above all others, susceptible of the feelings of gratitude, but he was equally alive to a sense of injustice and ill-treatment; and therefore the House must not be surprised if a knowledge of these facts should extend to every quarter in Ireland. He was afraid that the Government would find that they had been influenced on this occasion by a feeling of false economy. The present state of Ireland was tranquil, but that would not justify the Government in turning loose a large body of men without the means of support or the hope of employment. He had been led to believe that the disembodiment of the militia in Ireland—would not have taken place until after the harvest. But he found that the disembodiment had been fixed for not later than the 7th of August; and he must say that a more inconvenient and inappropriate time could not be selected, as at that period employment would be scarce, and difficult to be obtained. He understood that it was intended to call out the militia for twenty-eight days' training in each year. He was afraid that when the time came the muster in Ireland would be a sorry one. The feelings which existed on this subject would become general in Ireland, and he believed he might say, as a notorious fact, that from Ireland had sprung many of the most gallant and brave soldiers who had distinguished themselves in the service of this country. He did not mean to say that the Government was bound to find employment for these men; but, surely, it would have been better to have dismissed them with proper clothing, and with a sufficient gratuity. He hoped that the noble Lord the Secretary for War, would be enabled to say that these statements were unfounded; but if that, unfortunately, should not be the case, then he trusted that his noble Friend would be enabled to state that this proceeding had not been approved of, or received the sanction of Her Majesty's Government. One satisfactory result would at least arise from his putting this question—it would show the people of Ireland that in both Houses of Parliament there were Members who

were willing to take up their case, and to fix public and parliamentary censure upon those who might deserve it. The noble Lord concluded, by putting his question to the Secretary for War.

LORD PANMURE said, the noble Lord's first question related to the dismissal of fifty-seven men of the City of Limerick Artillery Militia from Youghal on the 5th instant, and the noble Lord drew a very melancholy picture of their condition at the time of their discharge. He could only state in answer to that question that he had received no such information, either officially or privately; and he apprehended that had such an occurrence taken place it must have come to the knowledge of the Lord Lieutenant, who had recently been in Limerick, and his Lordship would have taken care to apprise him of it. In answer to the noble Lord's second question, as to the discharge of 240 men from the Curragh with only one day's pay, he had to state that the men were permitted—not discharged—to retire from the regiment and go to their homes, in order to find employment, which they had been led to expect was open to them. They were allowed the proportion of pay and gratuity due to them up to that time, and thus provided for the journey home they quitted the service. With regard to the disembodiment of the militia he had already stated that it was the intention of Government that the disembodiment should take place at a time when the men could be employed in the harvest. He saw nothing in the present state of Ireland to prevent them doing this, and justice required that they should deal with the Irish militia in the same way that they dealt with the English and Scotch, and this would be done.

THE SLAVE TRADE IN THE BRAZILS.

THE EARL OF MALMESBURY rose to move, that an humble Address be presented to Her Majesty for Copies of any Correspondence that has lately taken place between Her Majesty's Government or the British Envoy at Rio Janeiro and the Brazilian Government on the subject of the Slave Trade. As he saw that the correspondence had been promised to the other House of Parliament by the noble Lord at the head of the Government, he might assume that the noble Earl (the Earl of Clarendon) would at once concur in his Motion. It might be supposed, therefore, that he need not detain their Lordships, but the subject was one of paramount im-

portance, and he might have no other opportunity of calling attention to it during the present Session. It appeared that owing to a correspondence, which he could not describe in any other terms than as ill-judged, the Brazilian Government were greatly offended with the Government of this country, and the discussions that had taken place in consequence in the Representative Assembly of Brazils appeared to threaten a dissolution of the amicable relations between the two countries. It seemed to him that there was scarcely a single country the friendship and alliance of which were of greater consequence to Great Britain than the friendship and alliance of the Brazils. It was entitled to English sympathies, as well from its position as from its character. Without offending that Government or the Sardinian Government, he might say of Brazil that it was the Sardinia of South America; for, while the other States of South America, with the exception of Chili, were almost all under the despotism of republican anarchy, the Brazilians were enjoying a constitutional Government and every day reaping increased prosperity. Looking at it through our material interests, their trade with Great Britain was immense; and, looking forward to the changes and chances which might affect our relations with the United States, there was no country the alliance of which would be of greater consequence than the Brazils, supposing, unfortunately, that we should be at war with the United States. If we should then be on unfriendly terms with the Brazils, privateers might be sent from the Brazilian coast to annoy our trade, and adventurers from the United States might thus inflict very great injury upon our commerce. Great Britain had always been on very good terms with the Brazilian empire; but at times there had been disputes with it, not in reference to any points of policy, but in relation to the slave trade, which used to be carried on with great barbarity and to a great extent in the Brazils. In 1826, a treaty was made with the Brazilian Government for the total abolition of the slave trade, and mixed courts were appointed for the trial of offences. Matters, were, however, shortly afterwards in so unsettled a state in the Brazils that the slave trade was not suppressed as was desired; and in 1845, the noble Earl (the Earl of Aberdeen), who was then Secretary of State for Foreign Affairs, took a strong step, which he would not find fault with, as it answered its pur-

The Earl of Malmesbury

pose, and was, perhaps, necessary at that time. An Act of Parliament was passed, prohibiting all Englishmen from carrying on the slave trade, permitting British cruisers to capture all vessels engaged in the slave trade within Brazilian waters, and empowering them to cruise in all Brazilian waters and to seize slave vessels under the very guns of Brazilian fortresses. No stronger step could have been taken—nothing could be more insulting to an independent nation, and the Brazilian Government naturally felt the deepest indignation and anger, although they were obliged to submit to the superior force of this country. Years passed on, and partly by the efforts of our cruisers—and, it was only justice to say, partly in consequence of the sincere and loyal co-operation of the Brazilian Government—the slave trade in that country decreased most rapidly. In 1852, when the Earl of Derby came into power, he (the Earl of Malmesbury) found that the irritation and humiliation of the Brazilian Government were exceedingly great, for they thought Great Britain had legalised a kind of piracy for the purpose of abolishing the slave trade. Of course, no Act of Parliament of this country could interfere with international law, but the Act of Parliament protected those who acted under it. The Government of Lord Derby thought the time had come when the action of this law might be modified, and said they felt so much confidence in the loyal intention of the Brazilian Government to suppress the slave trade, that they would—not abolish that Act—but suspend it. From this time the Act had remained suspended, and the slave trade had decreased most rapidly, so that in the course of two or three years not more than two or three slavers were seen on that coast, and they had been captured and taken. About the end of 1855, however, a slaver managed to land a cargo—and it appeared that forty-seven of these slaves were kidnapped and taken up the country. Out of those forty-seven, ten or twelve made their escape, so that not more than about twenty of these slaves were carried into the interior. It surely would have been sufficient to have pointed out this to the Brazilian Government, and to have asked for an explanation; but, instead of that, Mr. Jerningham, our Chargé d'Affaires at Rio, presented a note to the Brazilian Government, the terms of which, to say the least, were most uncourteous. He might not be in order, and it would certainly be anomalous if he

were to read the supposed despatch, as published in the public journals, when he was moving for a correct copy of the correspondence; but he did not exaggerate the fact in characterising it as most uncourteous. Mr. Jerningham, after stating the extreme disappointment of the English Government at the laxity of the Brazilian Government, proceeded at once to say that, if there were any repetition of such a ground of complaint, the humiliating Act of 1845 would be put in force; and, not satisfied with that mortifying threat, he further said that British vessels would enter the harbours and rivers of the Brazils and seize the slavers, and that, if the Brazilian courts did not convict the offenders, English courts would be found to have the courage to do so. He had hoped that, from the moment the noble Earl entered the Foreign-office, a certain style which pervaded the correspondence of that office would be at an end. The style he alluded to commenced in the year 1830, and continued to the year 1841. It then disappeared, but it began again in the year 1846, and continued to the end of the year 1851. It was a very peculiar style. Whatever the circumstances, the stereotyped despatch opened by expressing the unqualified displeasure of Her Majesty's Government, and concluded with some menace. The Minister of Foreign Affairs always sounded his trumpet from the highest note in the gamut, and the consequence was he could never use any other note without descending in the scale. He did not think that was a judicious mode of conducting our foreign affairs, because strong nations retaliated by insolent replies, and weak nations retained a dislike to the English Government ranking in their minds, and, perhaps, leading to a dislike of the English people. Although he might have had to find fault with his noble Friend (the Earl of Clarendon) for exhibiting too much of the *fortiter in re*, he never anticipated having to accuse him of the want, as in this case, of *suaviter in modo*. The note from the Brazilian Minister in reply, displayed great anger and mortification, but was written in very dignified language. He did not wish to quote the note, but the Brazilian Minister said he had explained this very case to Mr. Jerningham, that he had shown Mr. Jerningham that many of the slaves had been recaptured, and that he had promised to recapture as many more as possible. That interview took place

early in February, and the note was written on the 7th of March. He supposed that in the meantime a despatch had been received from the Foreign Office in reply to the first account of the transaction which was sent home. The Brazilian Minister subsequently showed that only twenty slaves remained not recaptured, and he said the pursuit was stopped because the prevalence of yellow fever made it certain some of the troops would be lost. The Brazilian Minister detailed the difficulties incident to the geographical nature of the country, and closed his despatch by expressing his astonishment at the humiliating threat of the English Minister, when on the 4th of February Mr. Jerningham had complimented the Brazilian Government on the capture of the *Mary Smith*. When the Brazilian Chambers met—and he would say in passing that he had been much surprised at the talent which had been shown in their debates—great indignation at such a note being presented to the Brazilian Government was expressed by all parties. The King sympathised with that disapprobation. The public press, to a unit, was very violent against us, and two of the most distinguished speakers denounced our conduct as most unjust and insulting. Other members of the Chambers, perhaps with less judgment, but not with less power of mischief, said very openly—

“If we are merely to be considered as the slaves and servants of Great Britain—if Great Britain is to inflict these threats on us, perhaps to be followed by stronger measures, the only thing we can do is to form other alliances.”

And then they plainly set forth the advantages of an alliance with the United States, observing that, with respect to slavery, they would meet with no difficulties whatever. He would ask the noble Earl whether such an alliance between the Brazils and the United States was desirable for this country? Considering the amount of our trade with the Brazils, their political position and their descent from our most ancient allies, the Portuguese, he conjured the noble Earl to pay that respect to the Brazilian Government which he thought they deserved, not only because it was our interest to respect them, but because they had really done their best to put an end to the slave trade. Of the good faith of the Brazilian Government he had proof in 1852, when he advised his noble Friend (the Earl of Derby) to suspend the Act. He had now also private

information to the same effect, on which he could depend; and, as the slave trade could only be stopped by the determination of the Brazilian Government to stop it, he entreated the noble Earl not to restrain himself—for there was no danger from him of useless and insulting threats—but to restrain the rude and mischievous zeal of his subordinates. The noble Earl concluded by moving for the correspondence referred to.

THE EARL OF CLARENDON was understood to say that he concurred in a great deal which had fallen from the noble Earl. He thought the noble Earl had not exaggerated the importance of a good understanding between the Brasils and this country, and had correctly described the advantages to be derived from it, and he could not but regret the coolness that had arisen between the two countries. The noble Earl had accurately described the increasing prosperity of the Brasils, and the great advantage which must accrue from our alliance with a constitutional Government, which was in a state of settlement and tranquillity compared with the other States of South America. He thought, also, that we ought to be extremely grateful—and that gratitude had been constantly expressed in Parliament, in the press, and in official despatches—to the Brazilian Government for the manner in which they had co-operated in putting down the slave trade. He also took the same view as his noble Friend in reference to the Act of 1845. The Act was not in operation at the present moment, and the Brazilian Government were perfectly aware that Her Majesty's Government had no objection to alter the provisions of that Act, if provisions of equal stringency, or at all events having the same objects in view, were secured by treaty. Such a treaty was under consideration two years ago, but the Brazilian Government objected to grant the same conditions. Negotiations were still pending between the two Governments upon this point. It was, therefore, the fault of the Brazilian Government and not our fault that the Act still existed, and with it the power of menacing the Brazilian Government. But, although the slave trade had been effectually put down, there had been certain occurrences within the last year and a half which raised well-founded apprehensions that the trade might be re-established. The Brazilian Government had neglected to take any measures for effectual colo-

nisation and immigration, whereby to secure a supply of labour. The slaves had died off, and there had been a remarkable mortality, owing to cholera and yellow fever. The consequences were, that the hands for field labour were very short, the price of slaves had risen enormously, and the temptation to engage in a very profitable trade had greatly increased. As some years ago 60,000 slaves were imported annually, their Lordships would have some idea of the enormous profits derived from this nefarious traffic, and with rising prices apprehensions were naturally excited that attempts would be made to supply the slave market. Those attempts were made last year, and upon a very considerable scale, the parties no doubt speculating upon the duration of the war in which we were then engaged, and the consequent difficulty of sending a sufficient naval force either to the African or to the Brazilian coast to prevent the renewal of the traffic. In the course of the last year notice was given by the Brazilian Government to the President of the province of Pernambuco, that a slaveship was expected to land her cargo upon that coast. The vessel did arrive, and exactly at the spot which had been indicated; but the police were all absent, and it was only after some time, by the act of a gentleman residing in the vicinity, who took on himself the duties of the police, that about 160 of the slaves were seized. The vessel was a schooner of 130 tons only, which had on board no less than 250 slaves. So little vigilance had been used, so little desire existed to prevent the introduction of the cargo, that two days after the arrival of the vessel one person went down and carried off forty of the negroes, and two days later another person selected sixty others. Representations were made upon the subject to the Brazilian Government, couched in terms of courtesy, such as the noble Earl had prescribed, and such as became the spirit of friendship which had always existed between the two Governments. Complaints of negligence and connivance were made against the President of Pernambuco, who not only would not allow the police to prevent the landing, but also would not permit any inquiry to take place upon the spot, but removed the investigation to a place six leagues from that where the landing had been effected, and where all eye-witnesses of it could easily have been procured. Moreover, in order that the gentleman who had seized the 160 slaves

should not give evidence upon the subject, the President included him in the list of persons accused, and thus prevented him from being examined as a witness. When these facts came to his (the Earl of Clarendon's) knowledge, he instructed Mr. Jerningham, in the event of nothing being done by the Brazilian authorities, and of no action being taken by the Brazilian Government, in consequence, to inform that Government that it would be the duty of Her Majesty's Government to enforce the operation of the Act of Parliament to which the noble Earl had referred. He would read an extract from the despatch of Mr. Jerningham. He wrote on the 14th of March:—

“That he had learnt with pain and disappointment that the course taken by the Imperial Government and the Imperial authorities in recovering the Africans who were stolen at Serinhaem, and in following up the prosecution of the real individuals implicated in the whole of that slave-trade affair, is far from being satisfactory; and, in consequence of instructions which the undersigned has received from Her Britannic Majesty's Government, who have approved of the conduct and zeal which Her Majesty's consul, Mr. Cowper, manifested upon the above attempt at slave trading, the undersigned begs to intimate to the Brazilian Government that if they do not use their utmost efforts in discovering the real aggressors in this or any other similar acts of slave trading, and in prosecuting them with all the rigor of the law, and punishing all such as have been engaged in such slave-trade transactions, that the British Government will be obliged again to put in force the provisions of the Act of Parliament of 1845; and that while British cruisers will exercise on the coast, in the rivers, and in the harbours of Brazil, that watchfulness and activity which the agents of the Brazilian Government neglect to use, British courts of justice will pronounce those sentences of condemnation from which Brazilian courts may be found to shrink. The undersigned, after so many assurances on the part of the Imperial Government that they were using their utmost vigilance and energy to suppress the slave trade, and to punish offenders, regrets that the lax and unsatisfactory manner of the proceedings in the province of Pernambuco should occasion him to be obliged to signify to the Imperial Government the line of conduct which Her Majesty's Government will infallibly adopt in crushing and extinguishing all slave-trade transactions, if the Imperial Government do not command and force their own authorities to do their duty.”

It was under those circumstances that Mr. Jerningham felt himself justified in acting upon his instructions, and in addressing to the Brazilian Government that notice to which the noble Earl had referred. It was perfectly true that the Brazilian Government was angry at that communication. It was also perfectly true that de-

bates took place in the Brazilian Chambers upon it, and that the Brazilian Minister had addressed to himself a remonstrance, urging that it was a mortification to the feelings of the Brazilian Government. He (the Earl of Clarendon) had replied, of course, that it was not the intention nor the desire of Her Majesty's Government to mortify the Brazilian Government, and that they desired to maintain the most friendly relations with it; but that the notice had been given from a fear that, owing to the altered circumstances of Brazil, great preparations were being made for the renewal of the slave trade, and it was intended in a friendly manner to put the Government of that country upon its guard that it might take proper steps in that matter. He trusted that all ill-will, such as had been alluded to by his noble Friend as having been manifested in the Brazilian Chambers upon this subject, had disappeared, and that the Government there had recognized the justice of the representations which had been made, as indeed he believed was the case, for it had already removed the President of Pernambuco from his post, and had given the best proof of its sincerity in undertaking to suppress the slave trade by appointing in his place the former Minister to this country, than whom a more honourable or upright man did not exist. Under these circumstances, and after the explanations which had been given, he hoped the Brazilian Government had ceased to entertain any ill-will upon this question, and had acquitted Her Majesty's Government of any wish to inflict mortification upon them. With respect to the papers for which the noble Earl had moved, some of them were already printed with other papers relating to the slave trade, and the remainder of the correspondence, which had occurred since March last, would be laid before Parliament next year.

THE EARL OF ABERDEEN said, the Act referred to had been introduced by himself ten or eleven years since, although with very great reluctance. He believed that Act was justified at the time by the circumstances which then existed, but undoubtedly it was a measure of extreme severity, only to be justified by strong necessity. At the time of the passing of the Act he had assured the Brazilian Government of his regret at having to propose such a measure, and that nothing would give him greater pleasure than being able

to move for the repeal of that Act. He had even hoped that the time for repealing the Act had come, and only yesterday he had been prepared to communicate with his noble Friend the Foreign Secretary upon the subject; but he regretted to find that what he had imagined had been completely effected by the Brazilian Government had not taken place, and that there were some symptoms of a renewal of the slave trade. Under these circumstances, he could not blame the threat, as it was called, of a renewal of the Act; but he hoped, from what had taken place, that the conduct of the Brazilian Government was, and would continue to be, such as not only would render unnecessary any enforcement of the Act, but would also speedily render its total repeal justifiable and practicable. He quite agreed with the noble Earl opposite as to the interest of this country in cultivating the alliance of the Brazilian Government, for the conduct of that Government stood in favourable contrast with that of other Governments in South America. The interest we had in maintaining friendly relations with Brazil, the extent of our commercial relations with that country was such as to be a matter of paramount importance. Therefore, while approving of the energy of the measures adopted, he hoped that by kindness and conciliation the noble Earl would be able, before long, to place matters on the most satisfactory footing with the Brazilian Government.

THE EARL OF MALMESBURY agreed with his noble Friend that the Brazilian Government had proved their loyalty by appointing the gentleman alluded to in place of the President of Pernambuco. He was satisfied with the explanation of the noble Earl (the Earl of Clarendon) to a certain extent; but he thought that all that had been obtained from the Brazilian Government might have been obtained in a different manner—without the presentation of a note of remonstrance, which was an official document of extreme character. It was with the manner and not with the spirit of the communication that he found fault. He by no means wished to discommend his noble Friend's anxiety to put down the slave trade; but he did think that his noble Friend or his agent had been extremely mistaken in the manner in which they had conducted the correspondence with the Brazilian Government.

Motion agreed to.

The Earl of Aberdeen

ISMAIL AND RENI—DIPLOMATIC INTERCOURSE WITH RUSSIA—QUESTION.

THE EARL OF MALMESBURY said, he now wished to ask his noble Friend (the Earl of Clarendon) another question of which he had given notice—namely, whether it was true that the two fortresses of Ismail and Reni, which were included in the cession of that portion of the territory which the Russian Government had made over to Turkey by the treaty of Paris, had been, as he was informed they were, totally and entirely dismantled? It was manifest, he thought, that the territory of the Delta was of little use as a bulwark to Turkey if no fortresses were maintained there. While Ismail stood as a fortress no Russian army could cross the Danube without leaving those fortresses in their rear; whereas if they were once destroyed, the whole geographical face of the country in regard to an invasion by Russia would be in the same state as before the war. Considering then that the Allies had taken a great part of Sebastopol; that they had also taken Kinburn, Kertch, Eupatoria, Kamiesch, and some of the fortresses on the Circassian coast, it appeared to him that we had had nothing like a fair exchange, even supposing that Ismail and Reni remained untouched, and still less was that the case if these places were reduced from the condition in which they were when the propositions of Austria were made to their present defenceless state. He wished to ask his noble Friend, therefore, if it were true that these fortresses had been dismantled before their evacuation by the Russians? If they had been, whether it was the result of any agreement which had been come to at the Congress at Paris? Whether the Turkish Government would not be obliged to maintain fortresses in the same position?—for in the case of a guaranteed country like Turkey there should have been a condition that the fortresses should be maintained. He would also ask whether any fortresses were to be rebuilt on the right and left bank of the Danube; and if so, by what soldiers they were to be garrisoned?—for it was of consequence, if fortresses were to be maintained there, that they should be garrisoned by troops who would be free from the temptation of Russian intrigue. There was another question to which he was desirous of calling the attention of his noble Friend. With some degree of hurry after the peace was concluded, his noble Friend despatched

Lord Wodehouse to St. Petersburg as Minister from the British Court, and that noble Lord had been there for at least a month; but never yet, to his (the Earl of Malmesbury's) knowledge, nor he believed to the knowledge of any one of their Lordships, had any Minister or representative appeared at St. James's from the Russian Court. Now, without being extremely punctilious upon such points, it was nevertheless desirable that diplomatic usages should be studied a little more minutely, and that we should not run any risk of jeopardising Her Majesty's dignity by sending an envoy to Russia without ascertaining that one was coming to represent that country in England. He should like to know, therefore, why no accredited Minister had yet arrived from St. Petersburg; and when he might expect to see the Court of Russia represented at the Court of Her Majesty?

THE EARL OF CLARENDON: I will answer the questions of my noble Friend in the order in which he has put them. With regard to the question as to the fortresses of Ismail and Reni, I cannot exactly state what has been actually done as to those Danubian fortresses, because the Commissioners appointed to settle the frontier of Moldavia have been occupied with other business, and have not yet been able to give their attention to the state of those fortresses. I have heard this morning from St. Petersburg that there had been no report received there of what had been done upon the subject. I have no doubt, however, that those fortresses have been dismantled, and I think it is a very unusual proceeding on the part of the Russian Government—a very unfortunate mode of inaugurating the peace. There were no regular precautions taken or arrangements made in the Treaty of Paris about the manner in which those fortresses should be given up. I should have considered it almost an affront to require any explanation as to the way in which a thing was to be done with regard to which there could have been no difference of opinion. I understand the Russian Government to assert that they considered that they had a right, until the boundary of the frontier was marked out, and until the country had been given over to the Allies, to demolish any fortresses on the Danube in the same manner as the Allies had to demolish the works at Sebastopol. But there is this very great distinction. Since the peace has been signed nothing has been demo-

lished by the Allies, nor any act of aggression committed; whereas the dismantling of the fortresses of Ismail and Reni took place after the peace was signed. We being in possession of Eupatoria, of Kinburn, and, more particularly, of Kertch, we might, in retaliation, have destroyed all the public works of those places; but we considered that, as soon as peace was signed, the places became Russian, and it would have been dishonourable on our part to meddle with those works; and, on the same principle, we contend that from the moment the peace was signed Russia had no right to meddle with these Danubian fortresses. Such, my Lords, is the opinion of Her Majesty's Government on this subject, and it has been communicated to the Court of Russia; but we have as yet received no formal answer on the subject. There is another fortress to which my noble Friend has not alluded—that of Kars—concerning which I have made some inquiry from the Russian Government. The answer which I have received is, that the moment peace was signed an Imperial order was sent to Kars directing that nothing there should be destroyed—otherwise the destroying of the citadel of that fortress would have been an express violation of the Treaty of Paris; but it was stated that owing to the disturbed state of the country, those orders were delayed on the route, and before they arrived some destruction of the works had already taken place; the moment, however, the Imperial mandate reached no further damage was done. There has been a report that on a part of the territory that is to be ceded to Moldavia certain Crown lands have been sold, and the answer to an inquiry on this subject is, that some authorities were proceeding to sell Crown lands, but that the Russian Government admitted that they were no longer theirs to deal with, and the sale had been stopped. The Russian Government have stated in the strongest terms that their object is to carry on everything connected with the peace in the most faithful manner, and I can only hope that for the future nothing will occur to destroy the confidence which, after peace has been established, should exist between the different countries. With regard to the arrival of the Russian Minister in this country, I have to say that we received an official intimation from Baron Brunow when he came to this country to deliver a letter to Her Majesty, that Count Creptowitch had been appointed Minister

to this country. As he had been so long in coming, and this country was left without a representative of Russia, which was somewhat disrespectful to Her Majesty, I inquired at St. Petersburg the reason of the delay, and I have been informed that the Minister will be here at the end of the month, and that the delay had been the result of unavoidable causes.

THE EARL OF ELLENBOROUGH: When the Russian Government ceded the territory on the left bank of the Pruth, of course they ceded at the same time the fortresses situated in that territory. It had been invariably the custom, so far as his memory went, when fortresses had been ceded, to insert provisions in the treaty detailing the manner in which they should be given up, and whether the guns, ammunition, archives, and plans should be included; and if the noble Earl now complained that Ismail and Reni had been dismantled the fault was his own, for not taking the precautions which all Governments had hitherto adopted of making such provisions as he had referred to. He regretted that in this instance, and in the other less important instance his noble Friend had referred to, there should be the least glimmer, or the least appearance, of any misunderstanding between this country and Russia with regard to the performance of the treaty.

THE EARL OF CLARENDON: The noble Earl's remarks are founded upon the cases of fortresses which were named in the treaty. In this instance they were not named.

THE EARL OF ELLENBOROUGH: Just so.

THE EARL OF DERBY: The not naming the fortresses to be surrendered was, in his opinion, an additional instance of neglect on the part of the noble Earl. The value of the ceded territory, in fact, consisted in these fortresses; and the omission to name them is, I repeat, an additional instance of negligence on the part of the noble Earl. The noble Earl admitted that in this case Russia had acted towards us, if not with a breach of faith, yet with the breach of an understanding, whilst, in another case, she had treated us with considerable discourtesy, which did not augur very well for the continuance of the patched-up peace that had been concluded. He should be glad to know, as the noble Earl had received some answer from the Russian Government with regard to his remonstrances on the subject

The Earl of Clarendon

of Kars, whether he had also received any answer, and if so, what answer, to his remonstrances as to the other fortresses, Ismail and Reni.

THE EARL OF CLARENDON: I must remind the noble Earl that it was not with reference to these fortresses that the territory on the banks of the Danube was ceded by Russia, nor did they form the most important part of that territory. The object of that cession of territory by the "patched-up peace," as the noble Earl terms it, but which peace has given great satisfaction to the country, was that Russia should not have access to the Danube by the continued possession of that territory. In answer to the noble Earl's question, he begged to say that he had not received from the Russian Government any conclusive reply to the communication addressed to them on the subject of Ismail and Reni.

CONSOLIDATION OF THE STATUTE LAW.

THE LORD CHANCELLOR rose, pursuant to notice, to call the attention of the House to the Second Report of the Commissioners for Consolidating the Statute Law. The subject, he said, was one of rather a dull and uninviting character, but he trusted that, considering its great importance, their Lordships would allow him for a few moments to occupy their attention. It would be in the recollection of some of their Lordships that, immediately after the Session of 1854, Her Majesty was advised by the Government to issue Her Commission to a number of distinguished legal functionaries and persons who filled high stations in the law, authorising them to Consolidate the Statute Law, as far as they should consider it advisable, with power to introduce into that consolidation any portion of the common law of the land which they might think necessary to make it work smoothly and well. In accordance with a suggestion from a noble and learned Lord not now present (Lord Lyndhurst), it was made an instruction to the Commissioners not merely to consolidate the existing law but to offer any recommendation which occurred to them as to an improved method of future legislation. He need hardly say that the whole task was one of almost overwhelming difficulty. The Statutes of this realm were contained in about forty quarto volumes, printed, as their Lordships were aware, in very small type and presenting the most uninviting aspect. They num-

bered altogether about 15,000. At the outset, he might observe that the appointment of this Commission partook in no respect of a party character. The first point to which the attention of the Commissioners (among whom were Lords Lyndhurst and Brougham, Lord Campbell, Sir J. Jervis, Sir Frederick Pollock, Sir James Parke, Vice-Chancellor Page Wood) was directed was as to the mode in which they should proceed. It was suggested that there ought to be a sort of general sketch of the whole of those Statutes, ranged under different heads, each of which should be consolidated into one or more Statutes; and this was to a certain extent set on foot, but was found to be almost impracticable. The Commissioners formed themselves into sub-committees, and it was an instruction to one of them to endeavour to improve and simplify the language of the existing Statutes. In the endeavour, however, to improve and simplify the language in which these Statutes were couched, and to introduce any portion of the unwritten law which seemed necessary, such extreme difficulty was soon experienced that the course determined upon was to make a general and improved classification, and then to proceed to consolidate under these different heads the different Statutes. The subject was divided into criminal law—law relating to property, and the law relating to mercantile matters. That did not exhaust the subject, but it went a long way to do so. The Commissioners made a Report at the end of the last Session of Parliament, and stated what they had done; the Bills, however, upon which they were employed were not in a state to be introduced to Parliament. They found that their work would be useless unless an improved method of legislation were adopted for the future, for otherwise, very soon after consolidation was effected, the work would have to be recommenced and done over again. In their Report laid before Parliament last Session they, therefore, made the following suggestion—

“We, therefore, beg leave to submit to your Majesty that in our opinion the most effectual method for insuring simplicity and uniformity in, or otherwise improving, the form and style of future Statutes, would be the appointment of an officer or board, with a sufficient staff of assistants, whose duty it should be—To advise on the legal effect of every Bill which either House of Parliament should think fit to refer to them, and, in particular, on the existing state of the law affected by the proposed Bill, its language, and structure, and its operation on the existing

law; and also to point out what Statutes it repeals, alters, or modifies; and whether any Statutes, or clause of Statutes, on the same subject-matter are left unrepealed or conflicting; so that the House may have at its command the materials which will enable it to deal properly with the Bill.”

This subject was fully considered during the recess, and early in the present Session of Parliament the Commissioners came to the unanimous conclusion that the step here recommended was absolutely necessary, in order to put legislation upon a creditable footing for the future. And this is a course which the Government intend to recommend. It was necessary, however, that such a course, if taken, should be taken at the beginning of the Session of Parliament. The Commissioners had suggested, and the Government intended to propose, the appointment of an officer who should perform with regard to public Bills duties in a great measure analogous to those which were performed for private Bills by the Examiner of Private Bills, with this difference, however, that he was to be appointed by both Houses of Parliament. There was a precedent for that in the Examiner of Standing Orders, who was the same individual for both Houses, and was appointed by both Houses. Of course it would not be his duty to interfere in any way with the policy of Bills, which necessarily rested with the Legislature. It often happened, both in Bills introduced by private Members and by the Government—there being no person whose immediate duty it was to look into the public Bills to see how far they harmonised with existing laws, how far they clashed with current legislation, and how far their language was such as ought to be adopted—that blunders crept in which caused the greatest confusion, and often necessitated the repeal of the Bills themselves in the course of the next Session. Scarcely a Session elapsed without an instance of this. The appointment of such an officer would have the beneficial effect in stopping the grosser part of this evil. He had said that the Statute-book contained 15,000 Acts; but many of them would not be called laws in any other country; for they were mere matters of regulation. It had always been the policy of this country to refer to the Legislature matters which in other countries were ordinarily mere matters of administration, such as the regulation of the army and navy, financial matters, local legislation, and the like. The moment these Acts had done their duty,

there was no longer any necessity that they should retain a place on the Statute-book; they were merely temporary enactments, they laid down no general rule of conduct, and they were not laws in the proper meaning of the word. At the beginning of this year the Statute Law Commission—one of whom was Mr. Coulson, whose experience in these matters was of great value—had taken the trouble to analyze the Acts passed last Session. They were 134 in number, and sixty-eight of them were merely temporary enactments, into which nobody would ever need to look when they had served the particular purpose for which they were passed. Less than one-half were laws properly so called. In bulk the difference was greater. The whole legislation of the Session occupied 1,005 pages, and of these only 226 pages were occupied by laws properly so called. There was now in existence one classification of Bills—namely, their separation into public and private Bills. It had occurred to the Commissioners that this classification might be carried much farther, by separating the annual and temporary Acts from the others. That would reduce the bulk of legislation to one-third of what it would otherwise be; and of that third one-third related only to India and the Colonies. By means of this classification the actual statute law would be reduced to the smallest space. With that view he proposed to call attention to the recommendations of the Commissioners, and the Government early next Session proposed to establish such an officer as he had already described, and he hoped both Houses would acquiesce in the appointment of some Committee, such as that which existed with regard to Private Bills, who should be in communication with this officer. During the past Session a great number of Bills had been prepared by the Statute Law Commission, some of which might have been laid before Parliament, but that he himself had not had time enough to look through them with sufficient care to be able so introduce them on his official responsibility. Others had not yet been revised by the public departments to which they related. For instance, a Bill had been prepared for the consolidation of the whole law relating to stamps, which had been laid before the Board of Stamps, but which could not, of course, be laid before Parliament until it had received the alterations which that Board might suggest. The consolidation of the criminal law had

The Lord Chancellor

been undertaken by Lord Wensleydale, the Lord Chief Justice of the Common Pleas, Sir Fitzroy Kelly, and Mr. Greaves, who had been formed into a Committee for that purpose. They found that there were some offences as to which consolidation would be inconvenient, and even impracticable in a great measure. There were a great many offences arising out of certain Acts done in respect to the Customs, and it was thought that the consolidation of the Customs Acts would be imperfect if it did not contain the criminal part as well as the civil part. Again, the same remark applied to the bankrupt laws:—if a bankrupt did not surrender he was liable to serious penal consequences, but to introduce that class of offences into a general measure relating to crimes and punishments would have induced the necessity of explaining the laws with respect to bankruptcy. Therefore, these two classes of offences were omitted in the Bills in question. Another class of offences which would not be found in the Bills were offences relating to religion. There was a number of old statutes on that subject, which, on consideration, the Commissioners thought it best at once to ask Parliament to repeal, because they related to the habits and usages of a bygone day. In some instances these Acts would now almost excite a smile, and, as much time would be required to consolidate all the statutes on this subject, that part of the business stood over, and was not embraced by the Bills he was now speaking of. With these exceptions, the Statute Law Commissioners had comprehended in six statutes all the law relating to indictable offences, classed under the heads of offences of high treason, of offences against public justice, against the person, of larceny and theft, of malicious injury to property, and of forgery, which he now laid upon their Lordships' table. Besides these, there was embodied in another short Bill all the Acts relating to the law with regard to principal and accessory in criminal cases, and in an eighth Bill was consolidated all the Acts relating to criminal procedure on indictments, juries, &c. These measures, the Commissioners believed, embodied all the enactments of forty Acts of Parliament, and portions of 150 others, and from his own inspection of them, he believed that they did all that they professed to do. It was necessary for him to add that, after all, unless these Bills were taken, he would not say absolutely on trust, but much more so than was done

with respect to an ordinary Bill introduced for the first time, consolidation would become impossible. He did not mean to say that oversights might not have been committed, but they might afterwards be remedied. It would be for Parliament to decide whether, on looking over some portion of the measures, it was satisfied with the diligence bestowed on them, and would not, therefore, subject them to that strict investigation which an entirely new enactment would require. In order to justify such a demand on the confidence of Parliament, a short report would accompany each Bill, pointing out any slight alteration in the existing law whenever it was found absolutely necessary to make such alteration. The rule which the Commissioners laid down for their guidance in framing these Bills was to make no change in the law, but in some few cases it had been found that that rule could not be adhered to. It had also been an object with the Commissioners to maintain, as nearly as possible, the language of the Acts they consolidated; but inasmuch as they found that the same offences were described sometimes in one set of words, and at others in another, they had adopted that set of words which they thought the best, and adhered to it throughout. At present the written laws of the country extended over forty volumes, and embraced some 15,000 Acts of Parliament. The Commissioners thought that the whole might be reduced to about 300 (some were sanguine enough to say 250) statutes, which might all be brought within the compass of three or four moderate-sized volumes. He would now lay the Bills on their Lordships' table; but he proposed to go no further with them than the first reading in the present Session, and to leave them to be considered during the recess.

The noble and learned Lord then *presented* the following Bills—

A Bill for consolidating the Statute Law of England relating to Criminal Procedure by Indictment [Criminal Procedure Bill]. A Bill for consolidating the Statute Law of England relating to Accessories to and Abettors to Indictable Offences [Accessories, &c. Bill]. A Bill for consolidating the Statute Law of England relating to Indictable Offences of a Public Nature [Offences of a Public Nature Bill]. A Bill for consolidating the Statute Law of England relating to Indictable Offences against Her Majesty the Queen and Her Government [Treason and Offences against the State Bill]. A Bill for consolidating the Statute Law of England relating to Indictable Offences by Forgery [Forgery Bill]. A Bill for consolidating the Statute Law of England

relating to Indictable Offences against Property by malicious Injuries [Malicious Injuries to Property Bill]. A Bill for consolidating the Statute Law of England relating to Indictable Offences against Property by Larceny and other Offences connected therewith [Offences against Property Bill]. A Bill for consolidating the Statute Law of England relating to indictable Offences against the Person [Offences against the Person Bill].

Which were severally read 1st :—

FORMATION, &c., OF PARISHES BILL.

Order of the Day for the House to be put into a Committee, and for Standing Orders, No. 37 and 38, to be considered in Order to their being dispensed with, read: Said Standing Orders *considered and dispensed with*: House in Committee accordingly.

Clauses 1 to 8 *agreed to*.

LORD PORTMAN moved the omission of Clause 9, which empowered a Bishop, upon application from the minister or churchwardens of a church, to direct that a portion, not exceeding one-half, of the alms or voluntary contributions collected in the church or otherwise during the year, should be applicable to the maintenance of the minister and service of such church. His Lordship said that this power to authorise the Bishop to divide the alms collected at the offertory for the poor or for other purposes was founded upon a totally new principle, to which he entertained serious objections. Those persons who had contributed money for any particular charitable object would not like to see it applied, under the authority of the Bishop, for an entirely different object. Take, as an example, this case—a minister is in want of money, he obtains the aid of a very popular preacher, and asks for alms for a charity for the blind. The topic is one to arouse the feelings of every one—a large sum is contributed—the minister applies to the Bishop to divide the alms of the year, and thus obtains a considerable sum which was intended for the blind. This scheme is a part of the new so-called “Sacerdotal system,” and requires to be checked. He feared that the clause would either cause great discord between the minister and his congregation, or else put an end to almsgiving in churches altogether. As it is necessary to make any Amendments before the question on the whole clause is put, he would wait until the alterations about to be proposed were discussed, and at the right time he would move to omit the whole clause, for if this principle is once admitted it will be applied to all the parishes of the kingdom,

though it is pretended that it is only to be applied in certain special cases.

THE EARL OF SHAFTESBURY said, that the clause was in the Bill when it came up from the other House; but he did not like it then and he did not like it now. It had been introduced into the Bill in the Commons, where it was adopted without a division; and although he did not like it he did not intend to oppose it, because there were conflicting parties in the Church, and the introduction of the clause had tended to produce a harmony of feeling and to secure the passing of the Bill through the House.

THE MARQUESS OF SALISBURY suggested an Amendment which would meet the difficulty—namely, to add after the words “or otherwise” in the last line but one the words, “not collected for any special purpose.”

THE EARL OF HARROWBY strongly objected to the clause. If it were permitted that the money collected in the church should be appropriated to other purposes, without any person being consulted but the minister or the churchwarden, people would withhold their alms and the poor would suffer. No aid was so gratefully received or so usefully distributed as the money collected at the offertory, which was distributed by the clergy, who generally accompanied the gift with kindly and useful advice. He advised their Lordships to leave the arrangements for the minister to depend upon the spontaneous good will of the parishioners. The proposal of his noble Friend (the Marquess of Salisbury) would meet a peculiar phase of the objection, but would not cover the whole of the case.

THE EARL OF DERBY thought it right to remind his noble Friend who had just sat down, and those other noble Lords who were not present on the Committee, that this clause must be considered, not on its own merits, but as taken in connection with another clause. Considerable objection had been, in the first instance, taken to the third clause; and that clause was postponed till the Committee came to the consideration of Clause No. 9. In all previous legislation on this subject, it was required that where a district church was proposed to be established, there should be a certain positive endowment of £150 a year guaranteed in the first instance. But it was obvious that in populous parishes that would be found to be a very poor provision for the clergyman; and by

Lord Portman

Clause 3 of the present Bill there was a waiving of that preliminary provision of an endowment of £150; but to meet that state of things Clause 9 was introduced, for the purpose of providing that wherever the endowment did not exceed £200, there should be this power of applying one-half the voluntary collections to the maintenance of the clergyman and the service of the Church. This Bill had been most carefully and deliberately considered by the other House. It had gone through a Select Committee there, and had come up to their Lordships' House recommended by a large majority. It was a measure which must be taken as a compromise between persons entertaining different views in regard to Church property. The Bill had also been sent before a Select Committee of their Lordships' House, who had given the measure their most careful attention. Such being the circumstances under which the Bill now appeared before them, he thought they would be hardly dealing fairly with the House of Commons if, at the present period of the Session, they made such an Amendment in the Bill as would endanger its passage through Parliament. He, therefore, hoped their Lordships would view the measure as a whole, and not reject the clause immediately under consideration. He did not think the clause unreasonable in itself, but was prepared to accede to the Amendment of his noble Friend near him (the Marquess of Salisbury).

THE DUKE OF SOMERSET opposed the clause, which he considered the most objectionable feature of the Bill. The Amendment of the noble Marquess did not go far enough to remove his objection. He should move to omit the word “or,” between the words “minister and churchwardens,” for the purpose of inserting “and;” for although he was opposed to the whole clause, he was anxious, if it could not be omitted, to make it less obnoxious by making the application to depend on the actions of the minister and both the churchwardens, one of whom would represent the parish.

THE EARL OF WICKLOW thought that the clause was calculated to check parochial charities in all places where the Bill applied.

THE BISHOP OF OXFORD said, he knew many instances in which the church could not be supported at all if a portion of the collections were not carried to the

use of the minister. He did not think such an appropriation could have a repressing effect upon charity. Although the clause was a new clause, yet it was a correlative of the novelty of the whole Bill itself, and was an attempt to meet the spiritual wants of the populations in new and ill-provided districts by voluntary contributions. He regarded the clause as absolutely necessary to the Bill, and if it was omitted he must withdraw his support of the measure.

THE EARL OF HARROWBY could see no necessity for mixing up two objects—the support of the clergy and the assistance of the poor. He thought it would be better to leave persons to contribute to either without forcing them to contribute to the other, whether they intended or not. He thought it would be better to withdraw the clause.

After a few words of explanation from the Bishop of OXFORD and the Earl of DERBY,

On Question, that the word “or” stand part of the clause, their Lordships *divided*:—Content 20; Not Content 20.

As the rule of the House is, that when the division is equal, it passes, *pro negante*, the word “or” was omitted.

THE DUKE OF SOMERSET then moved to insert the word “and.”

Their Lordships again *divided*:—Content 20; Not Content 20.

The word “and” was not inserted.

LORD PORTMAN then said, as the clause is now made nonsense, he advised the House to reject the whole clause, and not be alarmed by the threat of the Bishop of Oxford, as the Bill will pass without the clause, and in spite of the right rev. Prelate. He ventured to correct Lord Derby as to the history of the clause in the House of Commons. It was inserted at a late stage of the Bill, and was quite unknown to almost all the House, and was, in fact, a surprise. The Select Committee of their Lordships had differed on the clause.

Their Lordships then *divided* on the Question, “That the clause stand part of the Bill.”—Content 20; Not Content 22; Majority 2.

The clause was consequently *struck out*.

Other Amendments made: *Moved*, That the Report of the Amendments be now received; objected to; and after short Debate, *agreed to*. Amendments *reported accordingly*; and Bill to be read 3^d *To-morrow*.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Order of the Day for the Third Reading read.

Moved, That the Bill be now read 3^o.

LORD REDESDALE moved, that the Bill be read a third time that day three months. No Amendment had been introduced to remove the objections which he entertained to the measure; the correspondence which had been presented was of a most meagre character, and afforded but little information as to the negotiation which had taken place; and, believing still that too much of condition was attached to the retirement of the two right rev. Prelates, that the Bill was therefore of a simoniacal character, and that both politically and as regarded the Church, the worst consequences might be apprehended from it, he hoped their Lordships would not allow it to pass a third reading.

Amendment *moved*, to leave out “now,” and insert “this Day Three Months.”

THE LORD CHANCELLOR protested that there had been no negotiation whatever. When his right rev. Friend (the Bishop of Oxford) moved for the production of this correspondence, he said that he believed there were only two letters on the subject from the Bishop of London, and but one from the Bishop of Durham, and that he did not know even whether there was any answer by letter on the part of the Treasury. Of negotiation there had been none. It was perfectly true that, at a late period last year, the most rev. Prelate the Archbishop of Canterbury did, either verbally or by letter, inform his noble Friend at the head of the Government that it was the wish of the Bishop of Durham to resign; but nothing approaching to negotiation, and not one word of intercourse ever took place on the subject, as he believed, until the letter of the Bishop of Durham which appeared in the correspondence.

THE EARL OF DERBY said, he must take leave to remind the noble and learned Lord that on a former occasion he had himself stated that there had been no negotiation; but the correspondence now produced showed that negotiation there had been. As to the correspondence, perhaps their Lordships might be in possession of the whole of that which had taken place with regard to the see of London, but it was not possible that all had been published relative to the Bishop of Durham. Why, there was not even the simple

acknowledgment on the part of the Prime Minister of the proposition made to him, of his assent to it, or of the course which the Government intended to pursue. There was only a letter from the right rev. Prelate, in which he stated that he was ready to resign upon the assurance from the Government that there would be guaranteed to him an allowance of £4,500 a year. Now, he (the Earl of Derby) presumed that that assurance had been given to the right rev. Prelate. Unless, therefore, this was a note got up for the purpose of being laid before Parliament, there must, he apprehended, be some further correspondence. The noble and learned Lord now declared that there had been no negotiation, but what did this letter say?

THE LORD CHANCELLOR denied having said that there had been no negotiation. What he meant to convey was, that there had been none except what appeared from the correspondence.

THE EARL OF DERBY: Their Lordships had been told the other day that there was no negotiation whatever, that the resignation was a spontaneous act on the one part and was so accepted on the other. Now, the Bishop of Durham himself stated that he could have wished to name a later date for his resignation, but that the noble Earl (the Earl of Chichester) informed him that this might be inconvenient to the Government, and he therefore acquiesced. The Bishop of Durham, for the sake of the convenience of the Government, having thus consented to give up his see on the 1st of August, although it would be inconvenient to him to leave the palace by that day, the noble Earl having informed him that a later day than the first of August would be inconvenient to the Government—[The Earl of CHICHESTER: I did not tell him that or anything of the kind.] Well, the Bishop of Durham said so, at any rate. Here were the papers put in in justification of the course taken by the Government; and this correspondence, he maintained, showed a distinct negotiation in order to consult the convenience of the Government, and then it suited those who entered into the negotiation to say that this was not a correct representation of what took place.

THE EARL OF CHICHESTER explained that the right rev. Prelate was under some misapprehension;—he had had no authority from the Government to negotiate with the Bishop of Durham; he had merely visited him as a friend to whom he had

The Earl of Derby

mentioned his wish to retire. By “inconvenient” he did not allude at all to the convenience of the Government; but he had used the word in the sense only of its not being creditable to his own character to delay his resignation beyond the day which was fixed for the resignation of the Bishop of London.

THE EARL OF DERBY said, it did not appear from this correspondence that any day whatever had been fixed for the resignation of the Bishop of London.

THE EARL OF WICKLOW said, he had voted for the second reading of the Bill, not because he thought it was a good measure, but upon the faith of the noble and learned Lord’s statement that the greatest possible inconvenience would arise to the public if it did not pass. He was led to believe that the two dioceses were suffering from the illness of their Bishops; but, on the declaration of the noble Duke opposite, that he had the authority of the Bishop of Durham for stating that his diocese had not suffered in the least from his absence, he could not believe that, so far as that diocese was concerned, there was any great urgency in the case. It would have been very much better to proceed by a general measure, and he was afraid that the passing of this Bill would retard the introduction of such a general measure. They might have followed the example of the Roman Catholic Church in this particular by appointing coadjutors or suffragan Bishops, whose incomes might have been provided out of the revenues of the respective dioceses. His original objections to the Bill were very much increased by a perusal of the correspondence. The transaction might not amount legally to simony; but, looking to the meaning of the word, for a Bishop to offer to place his see in the hands of the Minister on condition of being secured a certain income by law was as much simony as anything possibly could be. The present was a very good time for considering the expediency of dividing the diocese of London. There were two cathedrals, two deans, two episcopal residences, and, above all, an ample revenue. Having voted in favour of the Bill, he should not now oppose it, but should refrain altogether from voting.

THE EARL OF HARROWBY defended the measure, with respect to which no more negotiation had taken place than had occurred if any other course had been taken. If a general measure had been brought forward the same process—simo-

niacal though it might be—must have been followed. Communications must have been entered into with the Bishops to ascertain what provision they would require, and the Legislature would have been called on to enact it in the same manner.

THE DUKE OF SOMERSET said, he did not know whether this Bill involved an act of simony or not ; but this he did know—that when the Bill got down to the other House, it would be designated by a much stronger name than “simony.” It would be looked on there as a bargain between the Prime Minister and the Bishops, by which they, for a consideration, placed their sees in his hands—and for such transactions they had a strong name there, which they would not hesitate to apply. The allowances stipulated for were £6,000 a year in the one case, and £4,500 in the other. Suppose the House of Commons should decline to ratify this bargain, and should reduce the allowances to £3,000 a year in both cases, what a position the Government would be placed in. Their Lordships had become a party to the contract and must reject the compromise of the Commons. Of what avail, then, were all the protestations they had heard as to the necessity of this measure to avoid a scandal in the Church ? This was one of the worst measures which had ever been laid before Parliament, because it singled out two individuals—who had always been looked upon with great jealousy in certain quarters on account of their large income, and he was astonished that the Government could send such a scheme down to the other House to encounter the rude treatment of Radicals and Church reformers. It should have been a general measure intended to meet all cases.

THE EARL OF POWIS thought the Bishops had had but scant justice done them in this debate. If they had expressed their willingness to appoint suffragan Bishops, and to pay them the income which was to be paid to their successors, every one would have said that they had done well ; but what they had done was even more disinterested. The noble Duke had stated that when the Bill went down to the other House it would be said there that the Minister had been bargaining for two bishoprics, and he thought that the proposition of a general measure would have been more advisable. Now, if that course had been followed the Minister would have been accused of taking advantage of the particular circumstances of two

bishoprics to introduce a measure giving him the reversionary appointment of a large number of Bishops. He conceived that much of the feeling which had been excited in respect to the Bill was to be attributed to the attempt of the noble and learned Lord on the woolsack to press it to a second reading at a time when the printed copies of the measure had not been distributed, and when their Lordships had not had an opportunity of knowing it was to come on.

VISCOUNT DUNGANNON looked on the Bill as establishing a most inconvenient and dangerous precedent. The measure was derogatory to the Church, and the correspondence laid on the table proved that there had been a bargain.

THE BISHOP OF OXFORD said, that the discussion on the Bill had not removed his objections to it. The whole course of this debate showed how unwise it was to make this a matter of individual legislation, for owing to these two particular Sees being dealt with in this way, every person who spoke on the subject, however careful he might be, ran the risk of having his statements turned into personal imputations. The Government were said to be actuated by a desire to obtain patronage, and the Bishops by a craving for money allowances ; and by this means the discussion partook of a character which a general measure would have avoided. Simony, if their Lordships looked into the law respecting it, would be found to have two aspects. The expression of an intention to engage in a corrupt bargain was an evil of the deepest dye. Now, he at once and altogether acquitted the right rev. Prelates in question and those who brought in the present Bill, of the slightest tendency to an intention to commit that moral evil, and he acquitted the Government of any wrong intention to grasp at patronage—on the contrary, he was convinced that they were all actuated by a sincere conviction that the Bill was necessary for the good of the State and the interest of the Church. But there was not only the moral aspect of simony ; there was, over and above, the legal aspect. Now, the present Bill did, in the most direct way, pass a peculiar *privilegium* or indemnity for the commission of the legal offence of simony. The legal offence was stated by 31 *Eliz.* c. 6, to consist in “corruptly taking for or in respect of resigning or exchanging the same directly or indirectly any pension or reward whatever.” [A NOBLE LORD :

Yes—corruptly taking.] Yes, the word “corruptly” was certainly used, but it was the bargain and not the incentive to it that was declared to be corrupt—the thing done and not the motive that actuated; and thus this Bill was a violation of the letter as well as of the spirit of the law. A noble and learned Lord had pointed out to him that the preamble of the Bill recited falsely the correspondence on which it professed to be founded, and observed that these words, “Whereas the said Bishops on relinquishing the income to which they are entitled in respect of their Sees are willing to receive the annual sums hereinafter provided for them during their lives,” &c., had no counterpart in the correspondence, there being no expression of a willingness, after resignation, to accept those sums. The noble and learned Lord had, therefore, drawn up certain words to be inserted instead of the words now in the preamble, and they were to the following effect:—

“Whereas the said Bishop of London, on being secured during his life the clear annuity of £6,000, and the Bishop of Durham, on the assurance that an allowance of £4,520 would be granted to him, &c., were willing to resign.”

The noble and learned Lord observed, that the words now in the Bill showed a shrinking from putting into plain English the direct bargain which the words implied, and being obliged to leave the House, he asked whether he (the Bishop of Oxford) would move his Amendment. He objected, then, to this Bill, for the reasons he had just stated; and, secondly, because he objected to the passing of the Bill for two of his own order, making a penal law not applicable to their future acts, and because it placed the Bishops on a different footing from the rest of the Ministry—from rectors, vicars, and other spiritual persons of the Church. He felt this to be an insuperable objection. In what an invidious position would the Bishops be placed if they were called upon to enforce the law against the clergy, they being at the same time a privileged class, exempt from the penalties of that law. As one of the class proposed to be so privileged he rejected their offer. Let the law of simony be dealt with as a whole; let this privilege, if it must be created, extend to those of the clergy who led lives of hardship and want, and who required it far more than the Bishops; but, for the sake of every class in the Church, let them not pass for the highest rank in the clergy a relaxation

The Bishop of Oxford

from which the lower ranks were to derive no benefit. There was another point to which he wished to call their Lordships' attention. By the 9 Geo. IV., c. 94, rectors and vicars were allowed to resign in favour of certain near relations of the patron, without incurring the penalties of simony; but a special provision was inserted, preventing that privilege from being exercised when the living was in the hands of the Crown. What, then, became of the argument, that they might deal with this case safely because the Crown was the patron? The Bill went right against the stream of precedent. It had been argued that, as it was manifest that there was no corruption in this case, as a necessary consequence there could be no simony. But by the law of simony, although both clerk and patron were ignorant of the transaction, and no corruption could therefore be attributed to them, yet if any other party were cognisant of an arrangement whereby money was to pass in consequence of the resignation of the benefice, the clerk would lose the benefice and never again be capable of presentation to it; and the patron would lose his patronage for that turn which would vest in the Crown. Although, therefore, there was in this case the most perfect purity—an almost heroic purity upon everything relating to money, on the part of his right rev. Friend—although it was perfectly impossible that his right rev. Friend could have dirtied his hands by any arrangement advantageous to himself, but detrimental to the interests of the Church, still, according to law, there remained a stain of simony upon the whole transaction which they were endeavouring by this Act to remove. He was anxious that their Lordships should understand the full force of the words in his right rev. Friend's letter—“if allowed by law.” He had reason for saying that the meaning of those words was:—“If the general law you are about to introduce allows you, then deal with my case.” He did not impute, and he never had imputed, to the Government, any attempt to deceive his right rev. Friend; but he did believe, upon his conscience, that they were holding his right rev. Friend to a bargain which he had made under a view of the case different from that which they had taken. He believed that his right rev. Friend had learnt from him as soon as from any one the nature of the Bill. His right rev. Friend had asked him what was being done with the general measure; he replied, that it

had been sent back to the Government, and there was reason to expect the Government would introduce it; and his right rev. Friend also received information upon what he thought sufficient authority, although certainly not from a Member of the Government, that a general measure was within twenty-four hours to be laid before Parliament. In consequence of that expectation, he used the words "if allowed by law" in his letter, expressing his willingness to do this act, if he could do it under the general measure. Before proceeding with the Bill, they ought therefore to ascertain whether his right rev. Friend desired that it should pass, now the general measure had been dropped. He was sure that his right rev. Friend had not been informed that the general measure had not been introduced, and that this Bill was a *privilegium* to exempt him from penalties which would still attach to others in his position before his consent to the Bill had been obtained. He said, that the Government had not dealt fairly with one who had dealt generously and nobly with the public through a long public life. On all these grounds he must give his solemn non-content to the third reading of the Bill.

LORD DENMAN intended to vote against the Bill, and regretted that the Government had not fully investigated the law respecting coadjutor Bishops before introducing it. He thought they might have proposed a general measure which would have been beneficial to the whole community.

THE LORD CHANCELLOR wished it to be understood, as the question might be raised in another place, that he did not admit that the Acts to which this Bill referred would constitute simony at all, even without any Act of Parliament on the subject. As at present advised, he did not believe that the Statute of Elizabeth applied to Bishops.

On Question that "now" stand part of the Motion, their Lordships *divided*:—Content 26; Not-Content 15:—Majority 11.

List of the CONTENT.

Lord Chancellor.	Chichester
DUKES.	Fortescue
Argyll	Harrowby
Cleveland	Kingston
MARQUESS.	Stradbroke
Lansdowne	VISCOUNT.
EARLS.	Middleton
Beesborough	BISHOP.
	Carlisle

BARONS.

Byron
Calthorpe
Camoy
Churchill
De Mauley
De Tabley
Foley

Kinnaird
Monteagle
Panmure
Portman
Saye and Sele
Stuart de Decies
Stanley of Alderley

List of the NOT CONTENT.

DUKE.

Somerset

VISCOUNT.

Dungannon

MARQUESSSES.

Bath
Salisbury

BISHOP.

Oxford

BARONS.

Colchester

EARLS.

Aberdeen
Derby
Desart
Elgin

Colville

Denman

Dynevor

Redesdale

Wynford.

Resolved in the Affirmative.

Bill read 3^a accordingly.

THE BISHOP OF OXFORD proposed a clause to the effect, that any surplus revenue from the two bishoprics should be paid to the Ecclesiastical Commissioners, and kept distinct until Parliament should determine whether and in what way Bishops should be allowed to resign their bishoprics from age and incapacity.

THE LORD CHANCELLOR said, he could not agree to the proposal.

Clause *negatived*.

Amendments made: Bill *passed*, and sent to the Commons.

PROTESTS.

Die Lunæ, 21^o Julii, 1856.

Against Third Reading of The Bishops of London and Durham Retirement Bill.

DISSENTIENT—"1. Because, by the Act of 26 Hen. VIII., c. 14, ss. 1, 2, 3, 4, 5, 6, and 7, Her Majesty may, by her Royal letters patent, at the instance of any Bishop, out of two spiritual persons being learned and of good conversation, appoint a Titular Bishop for each diocese, in aid of the several Bishops, for a time to be limited by them, and such Suffragan Bishops may lawfully be paid by them out of their several revenues.

"2. Because any Act of Parliament on the subject of Resignations and Pensions of Bishops should be first considered (as it is in the nature of a Money Bill) in the Honourable the House of Commons, and should provide for the case of all living and future Archbishops and Bishops and Incumbents, and might therein incorporate an Act similar to 52 Geo. III., c. 62 (which applies solely to Ireland), for England and Wales.

"DENMAN."

DISSENTIENT—"1. Because the Bill is one of an abstract and personal character, framed to meet the case of two individual Bishops, and not one of a general and comprehensive nature.

"2. Because the Bill was introduced at so late a period of the Session as to render any discussion as regards either its principle, or the

consequences it might involve by establishing an inconvenient and mischievous precedent, impossible.

"3. Because no serious evils to either diocese or to the Church in general could reasonably be apprehended from allowing matters to continue in their present condition a few months longer, when ample time would be afforded for the proper framing and full consideration of a general measure of relief calculated to prove essentially beneficial to the interests of the Church and the extension of sound religion.

"4. Because the sees of London and Durham are not at the present moment the only instance in which dioceses are deprived of the benefit of the active services of their Bishops, through age or infirmity; that such dioceses have an equal claim for consideration with those of London and Durham. Therefore, a Bill introduced to meet the case of two individual Bishops is unjust in principle, dangerous in practice, mischievous in example, and calculated to impede, rather than accelerate the progress of any future useful and comprehensive measure.

"DUNGANNON.

"For first and fourth Reasons,

"DENMAN."

House adjourned till To-morrow.

HOUSE OF COMMONS.

Monday, July 21, 1856.

MINUTES.] PUBLIC BILLS—1° Proctors in Ecclesiastical Courts; Bishops of London and Durham Retirement.

2° Stoke Poges Hospital.

3° Charities; Hospitals (Dublin); Burial-grounds (Ireland); Mercantile Law Amendment; Lunatic Asylums (Superannuations) (Ireland); Joint-Stock Banks.

STANDING ORDERS.

COLONEL WILSON PATTEN said, he would beg to move the adoption of the Report of the Standing Orders Committee, who had proposed certain alterations:—Of late a practice had grown up of moving long Amendments and new clauses on the third reading of Bills. During the present Session that practice had been carried out to such an extent that the principle of Bills had at the last moment been completely changed. The Committee on Standing Orders proposed, therefore, that no Amendments, except of a merely verbal character, should be introduced on the third reading of a Bill. Another and more important alteration which they proposed had reference to the revenues of India. By an Order, which dated from the Revolution, no Money Vote could be considered by the House unless it was recommended to them by the Crown. It had, however, been discovered in the recent discussion on the

case of the Nawab of Surat, that no such rule existed with regard to India; and as the Indian revenues stood on precisely the same footing as the land revenues of the Crown, he did not see why such an exception should be allowed. The Committee therefore proposed the new Standing Order—"That this House will not receive any Petition or proceed upon any Motion for a charge upon the Revenues of the East India Company, without the recommendation of the Court of Directors, sanctioned by the Commissioners for the Affairs of India." He believed the hon. and learned Gentleman (Sir E. Perry) objected to the proposal, because he conceived that it would interfere with the right of the Indian subjects of Her Majesty to appeal to Parliament. That, however, he apprehended was a mistake. The natives of India would have precisely the same right as that possessed by the natives of this country. It would be open for any hon. Member to move on their behalf for a Committee of Inquiry or an Address to the Crown. The only other proposed alteration in the Standing Orders which he need mention was one to the effect that Committees might sit on Wednesdays or during morning sittings without obtaining the formal permission of the House.

On the Question being put, "That no Amendments not being merely verbal shall be made to any Bill on the Third Reading."

SIR HENRY WILLOUGHBY said, he would beg to ask what was to constitute a "verbal" Amendment?

COLONEL WILSON PATTEN said, the Committee intended by that term anything which would make the least alteration in the meaning of a Bill. The Committee had only determined by the casting vote of the chairman to admit of any alterations at all; but it was thought that cases might arise in which there might be some little inaccuracies which it would be desirable to correct. He would beg at the same time to suggest that this alteration should not come into operation till next Session.

LORD ROBERT CECIL said, he thought the time chosen for the alteration of the Order was very unfortunate, seeing that the House had not long since had to reconsider its decision at the last moment. Under the proposed Order a Bill might be passed through Committee without Amendment, and reported the same night, and there would then be no opportunity of al-

tering it; but the House, if it discovered any mistake, must reject the measure altogether.

LORD HOTHAM said, the Lords had of late years refused to receive Bills after a certain date; but they had themselves, no doubt accidentally, sent down important measures within a very short period before the close of the Session. He would therefore suggest that it might be desirable for the House to pass a Standing Order similar to that adopted in the other House—namely, that after a certain date they would receive no Bills from the House of Lords.

MR. WILKINSON said, he was sorry the Committee on Standing Orders had not taken some steps to prevent the waste of time which occurred every week, in consequence of Members moving Amendments on the Motion for the adjournment.

Ordered, "That no Amendments, not being merely verbal, shall be made to any Private Bill on the Third Reading."

Resolved, "That the several Standing Orders relating to Private Bills, as amended by the said Committee, be agreed to."

Ordered, "That Standing Order No. 84, relating to Private Bills, be repealed."

Ordered, "That no Amendments, not being merely verbal, shall be made to any Bill on the Third Reading."

Ordered, "That on Wednesdays and other Morning Sittings of the House, all Committees shall have leave to sit, except while the House is at Prayers, during the sitting, and notwithstanding any adjournment of the House."

Motion made, and Question proposed,—

"That this House will not receive any Petition or proceed upon any Motion for a charge upon the Revenues of the East India Company, without the recommendation of the Court of Directors, sanctioned by the Commissioners for the Affairs of India."

SIR ERSKINE PERRY said, he should move that this Order be rejected, for he thought it ran counter to the whole course of recent legislation with regard to India, and which he considered would involve the denial of justice. The hon. and gallant Member (Colonel W. Patten) said that natives of India would be placed in precisely the same position as the rest of Her Majesty's subjects. That, however, would not be the case. A native of this country, having a claim against the Crown, would not come before the House of Commons at all—he would have his petition of right; therefore, the natives of India were not advantageously situated even with regard to Motions in the House of Commons for an Address to the Crown. The incon-

venience of the proposed Standing Order was exemplified by the difference of opinion which had arisen between the Board of Control and the Court of Directors as to the claim of the Nawab of Surat. The right hon. Member for Carlisle (Sir J. Graham) had expressed his opinion that, if some order of this kind was not adopted, the purity of that House would be tainted; but, although he (Sir E. Perry) was most anxious that the honour and character of the House should not be impeached, he thought the natives of India ought not to be deprived of the power of appealing to Parliament when they had suffered wrong. For those reasons, he should therefore move the omission of the Order.

MR. VERNON SMITH said, he considered that the Standing Order was necessary for the protection of the Indian revenues, and would beg to remind the hon. and learned Gentleman (Sir E. Perry) that it had received the approval of all the Members of the Committee except himself. He hoped it would not be supposed that the adoption of the Order would deprive the natives of India of any power of appeal, for they would have the same means of access to that House to represent any wrongs of which they had reason to complain as were enjoyed by any of Her Majesty's subjects.

COLONEL WILSON PATTEN said, he was willing to substitute for the words, "without the recommendation of the Court of Directors, sanctioned by the Commissioners for the Affairs of India," these words, "without the recommendation of the Crown."

SIR JAMES HOGG said, he wished to remove a misconception which existed, that natives of India could not sue the Government of India. The fact was, that the Indian Government possessed no privileges of exemption from legal proceedings, and that any individual could sue the Government of India, not only in the Supreme Court, but in any subordinate Court, the same as any individual, except in the case of a political matter.

MR. ROEBUCK said, he understood that the Nawab of Surat could not sue the East India Company.

SIR FITZROY KELLY said, there could be no doubt that, whenever the East India Company performed any act in its capacity of a private corporation, it was liable, like any other corporation, to be sued; but whenever the Company, as representing the British Crown, did any act

—as, for example, becoming a party to a treaty—it was entirely irresponsible in any court of law. When a native Prince of India was either coerced or persuaded into a treaty with the East India Company, and when he gave up his dominions and his Sovereign power, he had no remedy in a court of justice, should he deem himself an injured party. He lost all the power of a Sovereign, and did not acquire the rights of a subject. It was a very important question, whether the revenues of the East India Company should or should not be affected by any Bill brought in without the assent of the Crown; but, as this Standing Order was altogether new, and as it could not receive that consideration at that period of the Session which it deserved, he would, if a division took place, vote against it.

MR. CARDWELL said, he thought the Order, as amended, a very wise and just Resolution. It would give to every subject of India that remedy which was now possessed in this country of appealing to the House of Commons, if he thought he had a claim on its revenues. If the rule was not merely a technical but substantially a wise and beneficial rule in this country, it was equally so with regard to India. The revenues of India were held in trust for the Crown, and he held that the charges on those revenues should be fenced about with the same checks and cautions which were thrown around the revenues of this country. The Bill relating to the Nawab of Surat, which had passed that House by a large majority, had been rejected by the House of Lords because it was introduced as a private Bill. So far, there was a denial of remedy. He should certainly support the Order.

Motion, by leave, *withdrawn*.

Resolved, "That this House will not receive any Petition, or proceed upon any Motion for a Charge upon the Revenues of India, but what is recommended by the Crown."

Resolved, "That the several Standing Orders relating to Public Matters, as amended by the said Committee, be agreed to."

Ordered, "That the said Orders and Resolutions be Standing Orders of this House, and do take effect at the close of the present Session of Parliament."

Ordered, "That the Standing Orders of this House be printed."

REVIEW OF THE SESSION.

MR. DISRAELI: Sir, I beg to give notice that on Thursday next, or any other time which may be more convenient to Her Majesty's Ministers, I shall call the

Sir Fitzroy Kelly

attention of the House to the conduct of business during the present Session, and make a Motion for a Return of the Bills withdrawn during the same period.

VISCOUNT PALMERSTON: Perhaps the right hon. Gentleman would make his statement on Friday. Certain business has been fixed for Thursday, and it would be more convenient to take the discussion on his Motion on the following evening.

MR. DISRAELI: Very well, Sir, I shall make my statement on Friday.

THE GERMAN LEGION—QUESTION.

MR. MURROUGH said, he would beg, in accordance with the notice he had given, to ask the right hon. Gentleman the Clerk of the Ordnance whether it was true that, although the officers of the British army at Aldershot had been required to furnish their huts at their own expense, the huts occupied by the officers of the German troops there had been furnished for them at the public expense, and, that he might be in order, he would move the adjournment of the House so that he might be enabled to make a statement with respect to recent occurrences at Aldershot. When the Foreign Enlistment Bill was brought before the House in December 1854, its opponents pointed out to the Government the deplorable consequences which would ensue from the introduction of foreign troops into the service of Her Majesty. The anticipations of those gentlemen had been fully realised. Not only had the promise of the hon. Under Secretary for War, that the men belonging to the foreign legion, when they returned from the East, would be sent to some British colony, not been fulfilled, but it was rumoured out of doors that a very high and distinguished personage—

MR. WALPOLE: Sir, I rise to order. I do not wish to stand between the hon. Member and the House, but, having given notice of his intention to put a particular question to the Government, I do not think he can continue his observations. It is true that, in order that he might make a statement, he has moved the adjournment of the House; but he is bound. I apprehend, to confine himself to showing why that Motion should be adopted; otherwise it is obvious the public business might be exposed, from time to time, to very serious and unnecessary interruptions. I appeal to you, Sir, to decide whether the hon. Member is not out of order.

MR. MURROUGH: Sir, I concur with the right hon. Gentleman that I ought to have very strong reasons for adopting the course which I have now done, and, with the permission of the House, I will proceed to state those reasons. (*Cries of "Order!"*)

MR. SPEAKER: The right hon. Gentleman the Member for the University of Cambridge has fairly stated what the rule of the House is—namely, that when a Member moves the adjournment of the House he ought to show some reason why the House should adjourn. The hon. Member for Bridport has not done so yet.

MR. MURROUGH: No, Sir, but I am prepared to vindicate my Motion. When assassinations have been perpetrated at Aldershot by German mercenaries—when English subjects are bleeding from the dirks of foreign hirelings—am I not justified in calling the attention of the House to the subject? The country is indignant beyond measure. It feels that these foreign troops are countenanced by those who sit in high places. (*Cries of "Order!"*) It is all very well for hon. Gentlemen to cry "Order!" but it is our duty, as the representatives of the people, to inquire into these matters, and I am not aware that I am exceeding the privileges of debate in bringing so important a subject under the notice of the House. Sir, is it right or just that the officers of the German Legion, notwithstanding what has occurred at Aldershot and elsewhere, should have their huts furnished to them at the expense of the country?

MR. SPOONER: Sir, I rise to order. You have stated that when an hon. Member moves the adjournment of the House he is bound to give sufficient reasons why the House should adjourn. Now, can any event, however deplorable which may have happened at Aldersot, be a good reason why this House should forthwith adjourn?

MR. SPEAKER: I have not yet heard from the hon. Member for Bridport any reason why the House should adjourn. The House will see that if one hon. Member be allowed to move the adjournment of the House, and upon that Motion to make a speech relative to a totally different subject, another may adopt the same course, and it will be practically impossible to carry on the public business.

MR. MURROUGH: I think, Sir, that no business of any kind should be proceeded with until we have some statement from Her Majesty's Government on the important question which I have introduced to the notice of the House. That is the reason why I have moved the adjournment of the House. (*Cries of "Order!"*) I am speaking to order. I have no doubt hon. Gentlemen would be extremely glad to get rid of this question; but it is one of great interest to the country and to the Government, which has placed us in this dilemma. Are the assassinations at Aldershot to be left unexplained? Are the morals of the army, and indeed of the country at large, to be corrupted by a band of German brigands?

VISCOUNT BARRINGTON: I must say, Sir, that I think the hon. Member has now given us a reason why the House should not adjourn.

MR. MURROUGH: Sir, I feel, and many hon. Members feel with me, that the time has come when we should ascertain by what or by whose influence these German troops are maintained in this free country.

COLONEL FREESTUN: Sir, I rise to order. I really think the hon. Member should not be allowed to proceed.

MR. ROEBUCK: I do not think, Sir, any good can arise from this discussion, but let us not forget the old proverb that "what is sauce for the goose is sauce for the gander." Not so very long ago the hon. Member for North Northamptonshire (Mr. Stafford) having moved the adjournment of the House, proceeded to make a statement with respect to the naval review at Spithead. If he had a right to do that, I suppose the hon. Member for Bridport (Mr. Murrough) is equally entitled to make his statement, though I do not think he is adopting a very wise course.

MR. E. BALL said, he fully concurred with the hon. and learned Member for Sheffield, that the practice of the House was, on a formal Motion for the adjournment of the House, to allow statements to be made on different subjects.

MR. SPEAKER: I have no doubt that hon. Members, from time to time, have moved the adjournment of the House, in order to bring forward particular questions; but what I wish to point out to the House is, that if that practice be persevered in, it will be quite impossible to transact the public business.

VISCOUNT PALMERSTON: I apprehend, Sir, that, if the Standing Orders were strictly enforced, any hon. Member who had moved the adjournment of the House would be compelled to confine himself to that question. Through laxity and indulgence, hon. Members are occasionally permitted to diverge to other topics; but the House will observe that the hon. Member for Bridport is doubly out of order, because he has departed not only from the rules of the House, but also from a notice which he had himself given. I am ready to answer the question which he has placed on the paper, and, seeing that the hon. Member has given another notice for to-morrow with respect to the German Legion, I hope he will defer his observations till then.

MR. MURROUGH: Sir, I hope we shall hear something more from the noble Lord than a mere answer to the question of which I have given notice. However, I have no objection to postpone my observations till to-morrow, hoping that I may then have an opportunity of making a statement to the House. Meanwhile I trust the noble Lord will answer the question as to the huts occupied by the German troops.

VISCOUNT PALMERSTON: Sir, I am not going to enter into the subject to which the hon. Member has adverted—namely, the unfortunate collision which has taken place between the soldiers of one regiment and those of another. The particulars of which even have not yet reached me, nor do I know who were the aggressors. I deplore the event very deeply, but it is one not altogether without example, and I am bound to say that the general conduct of the regiments belonging to the German Legion has been most exemplary, and has met with high praise from all officers—both English and foreign—who have witnessed it. I now proceed to the question of the hon. Member itself. When the German Legion was stationed at Shorncliffe it was intended that it should remain there only a short time; and when it was removed to Aldershot, our intention was that it should stay there only until measures were taken for its final disposal—measures which, I trust, will very shortly be carried into execution. The hut furniture supplied to a British officer, as I am informed, consists of two chairs, a table, and fireirons. Anything beyond that he finds for himself. When the

Viscount Palmerston

German Legion was stationed at Shorncliffe, an application was made for an additional indulgence in the shape of a soldier's bed and mattress. It so happened that at that time there was a quantity of those articles in store, and considering that the German troops were to remain at Shorncliffe only for a short period, they were provided with a number of them. On their removal to Aldershot the same indulgence was continued to them for the same reason—that their stay in camp was to be only temporary; I certainly do not think that the House will consider that that is an indulgence calling for any animadversion.

MR. NEWDEGATE said, he wished to ask the First Lord of the Treasury whether, in the opinion of the Government, the troops composing the Foreign Legion were available for garrison or for active duty within the United Kingdom?

VISCOUNT PALMERSTON: Sir, the Act of Parliament which authorised Her Majesty's Government to raise foreign troops allowed them to bring into this country a certain number of these troops for the purposes of drill and organisation; but it was never contemplated that they should, while here, be employed in any manner in which troops might unfortunately be required to act. I have no hesitation in stating that these German troops are in this country simply as in a resting-place until measures, which are in contemplation, shall be taken for their disbandment: and although I trust that, in the present state of the country, it is utterly out of the question to suppose that any troops can be required for any such purposes as those to which the hon. Gentleman refers, I may add, that undoubtedly no foreign troops would, under any circumstances, be so employed.

MR. NEWDEGATE said, he wished to know if he was to understand that none of those foreign troops were to be available for garrison or for active duty in this country?

VISCOUNT PALMERSTON: They are not in garrison; they are encamped; and they must be somewhere.

LORD ROBERT CECIL said, he wished to ask whether some of those foreign troops had not been in garrison at Dover Castle?

VISCOUNT PALMERSTON: During the war they occupied a barrack at Dover, where they had been assembled for the purpose of training.

COAL EXPLOSION IN GLAMORGANSHIRE
—QUESTION.

MR. CAYLEY said, he would beg to ask the right hon. Gentleman the Secretary of State for the Home Department whether he intended to employ any special means to ascertain the real circumstances under which the disastrous loss of 110 lives had just taken place, from an explosion in a coal mine in Glamorganshire. The report stated 110 lives, but he had since been informed that 120 lives had been lost.

SIR GEORGE GREY said, he had received an account of the unfortunate accident in question, both from the coroner and the inspector of the district. The coroner stated that the inspector was on the spot two hours after the occurrence had taken place, and that he rendered very valuable assistance in the prosecution of the subsequent inquiry. But he added, that in the then state of the coal pit, and amidst the excitement naturally consequent on the calamity, it was impossible its cause could at once be thoroughly investigated, and the inquest had therefore been adjourned to the 28th instant. The inspector wrote to say that, considering the extent of the calamity, in which it appeared that 114 lives had been lost, he wished to have the assistance of two other inspectors in watching the inquiry; and he (Sir G. Grey) had accordingly directed that that assistance should be given. A thorough and searching investigation would take place.

CRIMINAL APPROPRIATION OF TRUST
PROPERTY BILL—QUESTION.

MR. HADFIELD said, he wished to ask the hon. and learned Attorney General whether he intended to proceed this Session with the Criminal Appropriation of Trust Property Bill?

THE ATTORNEY GENERAL said, he was glad to find the hon. Gentleman had put a question which afforded an opportunity of stating what were his views with respect to that Bill. When he had first obtained the consent of the House to the introduction of a measure for the amendment of the law in reference to the criminal appropriation of trust property he had hoped to go on with it and to pass it in the course of the present Session. But he found that the Master of the Rolls and some others of the Equity Judges were of opinion that the Bill, as it had

been introduced, might be productive of considerable mischief, inasmuch as it would enable trustees who had been guilty of fraudulent malversation to shelter themselves by refusing to give evidence before the Courts on the ground that they did not wish, and that they could not be required to criminate themselves. In consequence of the representations which had thus been addressed to him upon the subject, he had hesitated to go on with the measure. But on the other hand, he had been very strongly pressed by many of the leading practitioners in the Court of Chancery to see whether he could not overcome that difficulty. After having further considered the subject, he had, he hoped, framed a Bill which would meet the objection he had stated. He now proposed to take away from trustees, who were called upon to answer in a Court of Chancery, the privilege of sheltering themselves under the plea of crimination, and to give them instead the same security as was possessed by bankers and others who were charged with the fraudulent appropriation of securities—namely, that if under the pressure of the Court they disclosed transactions in which they had been concerned, they should not, in respect of such disclosure, be subject to a criminal proceeding. With the introduction of such a provision, he hoped to be able to propose a measure which should put an end to the fraudulent appropriation of trust property. It would be too late, however, to carry such a Bill in the present Session, and he should therefore propose it early in the Session of 1857.

LOSS OF THE "EUROPA"—QUESTION.

CAPTAIN ARCHDALL said, he would beg to ask the First Lord of the Treasury whether, it having been announced by the Secretary of State for the Home Department that the Government would take into consideration the question of erecting some permanent memorial to the gallantry and self-devotion of the officers and men who were lost in Her Majesty's ship *Birkenhead* in February, 1852, the Government will not at the same time consider the propriety of erecting a monument to the memory of Colonel Willoughby Moore and the non-commissioned officers and men of the Enniskillen Dragoons, who lost their lives by the burning of the *Europa* transport ship on their passage to the seat of war in the spring of 1854? He wished

to direct the attention of the noble Lord to the melancholy circumstances attending the loss of the *Europa*, and the noble and heroic conduct displayed by Colonel Moore and the Enniskillen Dragoons on that occasion, Colonel Moore refusing to leave the ship, though almost forced to do so, until the last man of his regiment had been saved.

VISCOUNT PALMERSTON said, that Her Majesty's Government were perfectly disposed to commemorate by some permanent memorial that other act to which the hon. and gallant Member had referred, in which a number of British troops had afforded a splendid example of the indomitable courage and the heroic self-possession which had always distinguished our gallant national defenders.

THE CRIMEAN REPORT.

The Report of the Board of General Officers which sat at Chelsea, to inquire into certain charges contained against various officers in the Report of Sir John M'Neill and Colonel Tulloch, was brought up by—

MR. C. P. VILLIERS, who said: In moving, Sir, that these papers be laid upon the table of the House, I will ask leave to notice a statement of an extraordinary character that I am informed has been made in another place, with respect to this Report in connection with myself. I am told that a noble Lord, in complaining that the Report had not been laid upon the table sooner, ascribed the delay to the fact that I had drawn the Report, and that I had been dilatory in the matter for the purpose of serving the objects of the Minister of War. Now, Sir, the reason why I do not believe that this noble Lord has been correctly reported is, that if he made such a statement it is impossible for any man to have uttered a more unmitigated untruth; and I cannot, therefore, believe that the noble Lord has been correctly reported. I beg to state that I never drew the Report, and I never delayed its presentation to Parliament. The general officers drew their own conclusions from the evidence submitted to them, and were quite competent to do so; and I did not delay the presentation of the Report—because I had no power to do so if I had wished it, and I had no object or interest whatever in doing so. I do not believe that anybody deserving the

Captain Archdall

least respect has ever offered any reason for supposing that I had done so. The noble Lord has been in constant communication with persons who have been connected with this inquiry, and I do not believe that anybody of the least authority has given him this information. He has not obtained it from Lord Hardinge, with whom he has been in frequent communication of late about a portion of these proceedings, for Lord Hardinge knows that all this noble Lord is reported to have said of me is unfounded in fact. Neither has the noble Lord had it from Sir Alexander Woodford, for I have applied to him to know if he considered that what was reported to have been said by this noble Lord was true, and whether he thought that, by any accident, anything could have been said or done by the Board that could have led the noble Lord into error. Sir Alexander Woodford's reply was that, as far as the Board was concerned, it was a gratuitous mistake, for it was perfectly untrue that I had ever wished or attempted to postpone the completion of the Report, and that nothing that had been said at or by the Board could for a moment justify such a thing being said; that the General officers had finished their Report as soon as they were able, and that they were much indebted for the assistance that had been rendered them from the Judge Advocate's office. The noble Lord could not have learned it from Lord Beauchamp, who that noble Lord had probably forgotten was in the same House as himself; for he rose, after the noble Lord had spoken, and, like a man of honour and a Gentleman, refuted the calumnies which he heard unjustly uttered against an absent person. I do not, Sir, therefore, know where the noble Lord got his information from, if he is correctly reported. It is further reported that this noble Lord imputed to me partiality during the conduct of the inquiry, and that I had abused the authority with which I was invested, in order to prejudice him. Sir, I think this House will support me in saying that I should degrade myself, as well as the office that I have the honour to hold, if I were to descend to notice such a charge. The proceedings were—fortunately for me—public; and that portion of the public who attended in the Court was able to judge of the conduct and demeanour of all those who were parties to the proceedings, and I hope the noble Lord is as

ready as myself to abide by their judgment. The noble Lord complains that the inquiry was political in its character, owing to the circumstance of the Judge Advocate General being a Minister and attending the Court. Sir, so totally opposed is this to the fact, that I solemnly declare that I never, during the whole inquiry, asked or heard what were the politics of the general officers who composed the Board and of which I knew nothing, with the exception of the three who were in Parliament; but since the noble Lord has made this assertion I have inquired, and have been credibly informed that every one of the general officers is of the same political party as the noble Lord himself. Besides that, Sir, there was a gentleman who acted as private secretary to Sir Alexander Woodford, who was in the room the whole time when the doors were closed, who, as I believe, was a private friend, and, as I know, was a strong political partisan of the noble Lord, so that in that respect he had everything in his favour: and the noble Lord's judges, they who tried him, and who judged and acquitted him, were his own political partisans. But I hope, sir, I may not be misunderstood to imply that therefore they were actuated in the smallest degree by political motives. I should be ashamed of myself if I imputed this motive to them, because I am satisfied it would be untrue. I believe the general officers gave a careful, anxious, and honest consideration to the evidence which was submitted to them; and I believe that they did what, as judges, they were bound to do,—namely, decide upon the evidence that was laid before them; and I am bound to say I believe that, however incomplete the inquiry and insufficient the evidence may have been in Lord Lucan's case, yet the general officers, looking to what evidence they had to decide upon, have given a just verdict. For what purpose, therefore, the noble Lord wants to discredit the inquiry by casting these imputations upon those who have not injured him I cannot say—I have considered it a duty to myself to notice them, and I trust the House, when they consider that there is no other way, for a Member of this House to meet such charges than to refute them here as publicly as they have been made elsewhere, will consider me excused for having, in my own defence, intruded these observations upon them.

GENERAL PEEL; Sir, as a member of the Board of General Officers who sat at

Chelsea, I have not the slightest hesitation in expressing my opinion that the charge adverted to by the right hon. and learned Gentleman as made by a noble Lord in another place, is perfectly unfair and unfounded. So far from the right hon. and learned Gentleman having been influenced by political feelings, or having attempted to interfere with the opinion of the Board of General Officers, I can safely assert that I know of no inquiry which has ever been conducted with less reference to political feeling. For my own part, with the exception of those three Members of the Board who have seats in this House and in the other House of Parliament, and whose political principles may therefore be assumed to be known, I have not the slightest idea what political views were entertained by the Members of the Board, and I am certain that all were men of far too high a sense of honour to have allowed themselves to be actuated by political principles in giving judgment on the professional conduct of a brother officer. The position of the right hon. and learned Gentleman, as regarded his relation to the Board, may have been an anomalous one; and the question may arise as to what position the Judge Advocate should hold in relation to the Court in inquiries of a similar character; but I can only say—and I am sure that I express the feelings of the whole of the Board—that I am at a loss for language sufficiently powerful to express the opinion of the advantage which the Board derived from the assistance of the right hon. and learned Gentleman.

COLONEL FRENCH said, he thought it was very inconvenient that a statement should be made in that House in reply to a charge made in the other House of Parliament. He himself had had no communication with his noble Friend Lord Lucan, but he felt certain that if he had made a wrong statement he would be ready frankly and fairly to withdraw it.

Subject dropped.

MERCANTILE LAW AMENDMENT BILL.

Order for Third Reading read.

MR. SPOONER said, he wished to call the attention of the right hon. Gentleman the Vice President of the Board of Trade to what appeared to him to be a defect in the measure. Under the 17th clause, as he understood it, a joint contractor who had been proceeded against by a creditor, and who had paid the sum required of him, could not recover from one of his partners

more than that partner's original share of the liabilities, although the other partners should have become bankrupts; so that if there had been four partners, and if one had paid the debt, he could not recover more than one-fourth of its amount from one of the other three, in case the two others should have become bankrupts.

MR. LOWE said, that the Bill had been carefully considered in the other House; and all he could state was, that he had been informed the clause in question would not have the effect attributed to it by the hon. Gentleman.

Bill read 3^o, and *passed*.

JOINT-STOCK BANKS BILL.

Order for Third Reading read.

Motion made and Question proposed, "That the Bill be now read the Third time."

MR. VANCE said, he objected to that provision in the Bill under which it would not be necessary that a certain number of directors should annually retire. By such a retirement, which was enforced in many banks, a great safeguard against fraud was afforded to the shareholders; and he believed that with such a safeguard the late frauds in the Tipperary Bank could never have been committed. He should, therefore, move that the Bill should be read a third time that day three months.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day three months."

MR. ROEBUCK said, he thought the best course the Legislature could pursue in that case was to let shareholders decide for themselves whether or not they should re-elect any Director. They must look to their own vigilance for their own security against fraud on the part of the Directors, and it would surely be unwise to prevent them from continuing their confidence in any particular individual.

Question put, "That the word 'now' stand part of the Question."

The House *divided*:—Ayes 92; Noes 12: Majority 80.

Main Question put, and *agreed to*.

Bill read 3^o, and *passed*.

THE INDIAN BUDGET.

MR. VERNON SMITH moved, that the House resolve itself into a Committee on the East India revenue accounts.

MR. I. BUTT said, he rose, pursuant to notice, to call attention to the petition

Mr. Spooner

of his Highness Meer Ali Moorad (presented 27th June), and to submit a Motion on the subject of the confiscation of his revenues and territories by the Indian Government. He was very unwilling to interfere with the right hon. Gentleman, and prevent him from going into Committee, but in order to keep his observations strictly in order, he intended to move as an Amendment, "That the House resolve itself into a Committee to consider how far the possessions confiscated from the petitioner form a portion of the East India revenues." He submitted such an Amendment was perfectly in order.

MR. SPEAKER said, that the Motion before the House was not a Motion for going into a Committee of Supply, and therefore the hon. and learned Gentleman was not in order in bringing forward a case of grievance to a particular individual.

MR. I. BUTT said, the petition he had presented complained of a matter affecting the revenues of India, and the House was asked to go into Committee to consider the revenues of India; he contended, therefore, that he had a right to ask the House to consider how far those revenues were derived from property that had been taken from the petitioner.

VISCOUNT PALMERSTON said, that the object of going into Committee was to enable his right hon. Friend the President of the Board of Control, to make a statement as to the revenues of India, and how they were applied. The matter brought forward by the hon. and learned Member was an individual grievance, which might be made the subject of a special Motion, but had no immediate connection with the business of the Committee.

MR. I. BUTT said, he would give way if the noble Lord would promise him Thursday for his Motion. He thought he was quite in order in stating the grounds on which he considered his Amendment to be regular.

MR. FITZROY said, he rose to order. It was not competent for a Member to argue a point of Order when Mr. Speaker had declared his proceeding was not in order.

MR. I. BUTT said, he would submit to Mr. Speaker that he was entitled to proceed.

MR. SPEAKER, the hon. and learned Gentleman certainly was not in order.

Motion *agreed to*.

House in Committee.

EAST INDIA COMPANY'S REVENUE ACCOUNTS—STATEMENT ON INDIAN AFFAIRS.

MR. VERNON SMITH, in rising to make the annual official statement relative to the affairs of India, said that the hon. and learned Gentleman opposite (Mr. Butt) laboured under a misapprehension if he supposed that the Committee into which the House had just resolved itself was about to dispose of the revenues of India. The object of the Committee was a totally different one. During the discussion of the Act of 1853 it was felt desirable that some notice should be periodically taken in that House of the general subject of Indian affairs, and it was thought that the best mode of doing so would be by the person who filled the office of President of the Board of Control every Session submitting a statement of the finances of India, on which occasion any hon. Gentleman who wished to make any complaint, or to offer any observations connected with the administration of that distant empire, would have an opportunity of addressing the House. Nothing could be further from his desire than to preclude any case of grievance from being fairly brought under discussion; he wished the natives of India to know that the doors of Parliament were opened wide to them; yet the hon. and learned Member for Youghal must be aware that if his Motion had been entertained before the House went into Committee, the effect would have been to get rid of what was termed the Indian budget for the present year; for it was not in his power, any more than it was in that of the hon. and learned Gentleman, to command another day for such a purpose. When he last addressed the House, on a similar occasion, he moved a series of Resolutions analogous to those submitted by his predecessor; but the hon. Member for Manchester (Mr. Bright) then moved an additional set of Resolutions, embodying the opinion of many hon. Members, that there should be some acceleration in the production of the Indian accounts, and also that the official statement on Indian affairs should be made at an earlier period of the year. While alluding to the hon. Member for Manchester, he must be permitted to express his deep regret at the absence of that hon. Gentleman, and more especially at the cause of that absence; for the presence of a man of such vigorous mind, and one so well

capable of discussing Indian affairs, in which he had interested himself from a single desire to promote the welfare of his fellow subjects, of whatever colour or clime, would be always of valuable service to him (Mr. Vernon Smith), and, he believed, also to the House. The loss of the assistance of that eminent debater was all the more to be deplored, looking at the number of empty benches which the House now presented. With one part of the hon. Gentleman's Resolutions he had been unable strictly to comply. Although the season of the year was not now so late as when he last made his statement, the period of the Session at which it was delivered was nearly the same in both cases. For that, however, he was not to blame. If the House came to a Resolution in one year, it ought to be prepared to enforce it in the next. The reason why it had not done so was doubtless because it gave the precedence over Indian affairs to the more exciting as well as more pressing questions of foreign policy, the negotiations for peace, and after peace had been proclaimed the urgency of domestic subjects. He had, however, been successful in fulfilling that part of the Resolution which enjoined on him the production of the Indian accounts at an earlier period than heretofore. His exertions in this respect had been seconded by the Court of Directors, and the local Governments had also responded to the whip made upon them with zeal and promptitude. The result was, that the accounts were presented on the 13th of March, instead of on the 18th of May, which had put the House in possession of the state of the entire finances of India two months earlier than usual. Together with the figures for the years 1853-4 and 1855-6 the sketch estimates for 1856-7 had been furnished to the Home Government—the greatest amount of progress ever yet made in the production of these accounts; and indeed he could not see how, with the sketch estimates of the coming year before them, they could well carry their anticipations of prospective revenue and expenditure much further into the future. For this improvement credit might, therefore, fairly be claimed. He would now read to the House the figures on which he founded the Resolutions that he intended to move, together with a comparison of the sketch estimates for 1856-7 with the actual accounts for 1853-4. For 1853-4 the figures were—

I. BENGAL—				£					£
Net revenue	...	...	...	8,096,682	Total revenues of the several				
Local charges	...	...	...	2,200,944	Presidencies	...	...	...	19,705,080
					Total charges of ditto	...	...	...	16,290,933
Local surplus	...	...	...	5,895,738					
NORTH-WESTERN PROVINCES—					Total surplus of ditto	...	...	...	3,414,147
Revenue	...	...	...	5,656,674	Interest on Indian debt	...	...	...	2,195,975
Local charges	...	...	...	1,547,106	Charges defrayed in England	...	...	...	3,262,289
Local surplus	...	...	...	4,109,568	Total further charges on In-				
Military charges of Bengal and					dian revenues	...	...	...	5,458,264
North-Western Provinces	...	...	...	6,026,336					
Net revenues of ditto	...	...	...	13,753,356	Excess of expenditure over income	£2,044,117			
Total charges of ditto	...	...	...	9,774,486					
Surplus available for general					This account had been put into a				
purposes of India	...	...	...	3,978,870	better shape for English eyes by his right				
II. MADRAS—					hon. Predecessor, who had also in his				
Net revenue	...	...	...	3,315,513	new form commuted Indian into English				
Charges	...	...	...	3,539,334	money. A still further process of simpli-				
					fication, by substituting Company's rupees				
Deficit	...	...	...	£223,821	for sicca rupees, would, if possible, be				
III. BOMBAY—					effected.				
Net revenue	...	...	...	2,636,211	He had now to submit the following				
Charges	...	...	...	2,977,113	comparison of the Estimate for 1856-7				
					with the actual result of 1853-4:—				
Deficit	...	...	...	£340,902					

COMPARISON OF ESTIMATE, 1856-57, WITH ACTUAL RESULT OF 1853-54.

REVENUE.										Increase.	Decrease.
Ordinary—										£	£
Land Revenue	...	...	...	...	...	...	...	...	...	432,842	—
Customs	...	...	...	...	...	...	...	...	...	471,640	—
Salt	...	...	...	...	...	...	...	...	...	—	63,779
Opium	...	...	...	...	...	...	...	...	...	412,847	—
Tobacco (abolished 1853)	...	...	...	...	...	...	...	...	...	—	8,398
Post Office	...	...	...	...	...	...	...	...	...	—	26,665
Stamps	...	...	...	...	...	...	...	...	...	32,867	—
Mint	...	...	...	...	...	...	...	...	...	46,891	—
Marine and Pilotage	...	...	...	...	...	...	...	...	...	14,978	—
Judicial receipts	...	...	...	...	...	...	...	...	...	35,061	—
Revenue of Straits settlements	...	...	...	...	...	...	...	...	...	21,596	—
Revenue of Coorg	...	...	...	...	...	...	...	...	...	—	3,779
Revenue of Nagpore	...	...	...	...	...	...	...	...	...	350,034	—
Revenue of Oude	...	...	...	...	...	...	...	...	...	1,698,914	—
Interest on debts due by Native States, &c.	...	...	...	...	...	...	...	...	...	—	2,400
Miscellaneous receipts, including sale of presents	...	...	...	...	...	...	...	...	...	104,012	—
Other receipts—											
Proceeds of estates administered to by the late Registrar General	...	...	...	...	...	...	...	...	...	—	639
Proceeds of assets of the late Government in the Punjab and receipts from Rajah Golab Singh...	...	...	...	...	...	...	...	...	...	—	29,513
Gain by exchanges	...	...	...	...	...	...	...	...	...	56,140	—
Total	...	...	...	...	...	...	...	...	...	£3,077,822	£135,373
Net increase of revenue	...	...	...	...	...	...	...	...	...	...	£2,942,449

EXPENDITURE.										Increase.	Decrease.
Payments in realisation of the revenue—										£	£
Charges of collection, &c.	...	...	...	...	...	...	...	...	...	141,516	—
Allowances out of revenue by treaty	...	...	...	...	...	...	...	...	...	—	132,777
Sinking fund, Tanjore	...	...	...	...	...	...	...	...	...	—	84
Allowances to village officers enamdars, &c.	...	...	...	...	...	...	...	...	...	—	75,570
Charges of the Nagpore territory	...	...	...	...	...	...	...	...	...	246,235	—
Ditto, Oude ditto	...	...	...	...	...	...	...	...	...	874,303	—
Charges in India—											
Civil and political	...	...	...	...	...	...	...	...	...	472,067	—
Carried forward	...	...	...	...	...	...	...	...	...	£1,734,121	£298,331

Mr. Vernon Smith

								Increase. £	Decrease. £
Brought forward ...	...	...	...	...	...	...	...	1,734,121	208,381
Judicial and police ...	...	...	...	...	...	...	...	173,770	—
Public works, buildings, &c. ...	...	...	...	...	...	...	...	1,030,218	—
Military ...	...	...	...	...	...	...	...	—	193,996
Marine, Indian navy, &c. ...	...	...	...	...	...	...	...	72,882	—
Charges of the Straits settlements...	...	...	...	...	...	...	...	5,854	—
Mint ...	...	...	...	...	...	...	...	—	98
Interest on debt ...	...	...	...	...	...	...	...	—	394,922
Charges in England—									
Dividends on East India Stock ...	...	...	...	...	...	...	...	—	2,970
Interest on home bond debt ...	...	...	...	...	...	...	...	43,764	—
Steam communication with India ...	...	...	...	...	...	...	...	—	10,611
Ditto, for extended communications, paid to Her Majesty's Government								—	27,289
On account—building, &c. a steam vessel for Madras Government, and									
cost of coals for use of steam vessels in India...	...	...	...	...	...	...	...	54,000	—
Transport of troops and stores ...	...	...	...	...	...	...	...	11,856	—
Furlough and retired military pay...	...	...	...	...	...	...	...	143,692	—
Ditto marine ditto ...	...	...	...	...	...	...	...	196	—
Her Majesty's troops in India ...	...	...	...	...	...	...	...	—	403,693
Charges general (home establishments, &c.) ...	...	...	...	...	...	...	...	—	2,648
Absentee allowances to civil servants ...	...	...	...	...	...	...	...	28,560	—
Annuities of Madras Civil Service Fund ...	...	...	...	...	...	...	...	—	1,400
Retiring pay, St. Helena establishment ...	...	...	...	...	...	...	...	—	88
Her Majesty's establishments in China ...	...	...	...	...	...	...	...	10,944	—
Expense of transportation of convicts ...	...	...	...	...	...	...	...	—	4,606
Invoice of stores ...	...	...	...	...	...	...	...	474,688	—
Total ..	...	...	...	...	...	...	...	£3,784,554	£1,250,702
Net increase of revenue ...	...	...	...	...	...	...	...	...	£2,942,449
Net increase of expenditure ...	...	...	...	...	...	...	...	...	2,538,852

£408,597

IMPROVEMENT OF 1856-57 AS COMPARED WITH 1853-54.

Excess of expenditure over income, 1853-54 ...	...	...	...	...	...	...	...	£2,044,117
Excess of expenditure over income, 1856-57 ...	...	...	...	...	...	...	...	1,635,520

Decrease ... £408,597

That statement showed that his anticipation last year of the deficiency which would occur had fortunately not been fulfilled. He would now inform the House of the results of the Indian finances from 1852 to 1856. From 1852-3 there was a surplus revenue of £424,257. In 1853-4 there was a deficit of £2,044,117. In 1854-5 the estimated deficit was £2,670,518, but the actual accounts showed a deficit of only £1,708,627. The improvement in that year, amounting to £961,891, arose from increase of revenue to the amount of £615,837; diminution of Indian charge, £344,722; and diminution of home charge, £1,332. The estimated deficit in 1855-6 was £2,057,633, and in 1856-7, £1,152,109, which was much below the amount anticipated. He would now explain to the House the cause of this result. The House was aware that one of the principal items of expenditure in India was under the head of public works. It had been said that the entire deficiency in the Indian finances was caused by the amount of money expended upon public works, but

that statement had, he thought, been disproved. He had certainly been inclined last year to over estimate the expenditure under this head, but he had since taken pains to ascertain the real state of the case, and with the assistance of one of the most intelligent accountants in his own, or, he believed, in any other public office (Mr. Leach), a statement had been prepared which would put the House in full possession of the facts. In order to ascertain what was the real expenditure upon public works he had directed that the statement should be confined to such expenditure as was incurred for works which could be fairly considered remunerative, for he thought a great mistake had been made, especially in Mr. Grant's Minute, so much alluded to last year, in taking into the account of public works expenditure upon repairs and matters of that kind, which were the ordinary incidents of an empire, as they were of an estate. The statement he had prepared was confined to reproductive public works, including improvements on military stations, for he considered that an outlay on barracks which

promoted the health of the soldiers, and so contributed to a saving of valuable lives, was even in a pecuniary point of view fully justifiable. The right hon. Gentleman then proceeded to read the following statement:—

Results of the Indian Finances in 1854–55, and as estimated for 1855–56 and 1856–57, showing the effect upon those Results of the Extraordinary Expenditure on Public Works above the average of former years:—

	1. Extraordinary Expenditure on Public Works, Civil and Military.	2. Average Extraordinary Expenditure thereon, in three years, 1851–52 to 1853–4.	3. Excess of Extra Expenditure on Public Works, above that Average.	Surplus Charge, including all extra Public Works in col. 1.	Surplus Charge, excluding amounts in col. 3.	Surplus Revenue, excluding all extra Public Works in col. 1.
	£	£	£	£	£	£
Actual 1854–55 ...	1,818,977	719,633	1,099,344	1,708,627	609,283	110,350
Regular Estimates 1855–56 ...	2,109,962	719,633	1,390,329	2,057,633	667,304	52,329
Estimated 1856–57 ...	1,734,375	719,633	1,014,742	1,152,109	137,367	582,266

The expenditure upon public works had, in fact, been the chief cause of the very considerable deficiency which existed, but it was consolatory to know that, but for such expenditure, there would have been an actual surplus of revenue. Before quitting the subject of public works, he must observe that he had yielded, as much as any one, to the excitement which existed in this country after the inquiry of the Committee, in 1852, as to the necessity of encouraging great public works in India; but he regretted that this notion had been pressed forward too eagerly, and had not been undertaken more gradually. The consequence of the excitement to which he referred was, that there arose throughout India an outcry for every description of public work. Letters were sent round to almost all engineers and other officials employed on such works, a stimulus was applied to the promotion of undertakings of that kind, and ill-digested plans, as well as those which had been carefully considered, were carried out. He might mention, in proof of his statement, that a proposal was submitted to the Government for the construction of a road from Lahore to Peshawur, at an expense of £4,000 a mile, or about half the expense of a railroad, and a railway was now projected over nearly the same ground. The operations for the construc-

Mr. Vernon Smith

tion of the road had been, to a certain extent, checked; but he mentioned the circumstance to show the inconvenience of commencing such enterprises without due consideration. One of the most important items in the Indian revenue was the salt duty. The duty imposed upon salt had frequently been brought under the consideration of the House by the right hon. Member for Droitwich (Sir J. Pakington), who had, however, exercised great forbearance this Session. The right hon. Gentleman had last Session called for a Report on the subject of the salt trade, which he had not yet received. That delay was partly owing to the illness of the gentleman employed to make the Report. It had now come to hand; and, though the statements and recommendations in it had not yet received the sanction of the local Government, and still less that of the Imperial Government, every one who read it must admit that it was a most able and valuable Report. He would read only a portion of the conclusion of it to the House—

“ It has for years—since August, 1748—been open to any to engage in the manufacture of salt according to the English method, under Excise regulations. The only remaining question is whether it is possible to introduce any system of Excise effectively where the common native process of manufacture is adopted. This question is now in course of practical solution. The

Bengal Government, with the full concurrence of the Government of India, sanctioned, in September, 1854, a set of rules for granting licences to parties desirous of engaging in the manufacture of salt, upon any method, under an excise system; so that, in fact, in Bengal a system of excise has been in course of substitution for the monopoly arrangements for more than a year past. The whole correspondence on the subject will be found in the Appendix, and it appears to me that all that is necessary is to push on the present scheme through all the salt-producing districts, as far as it depends upon the authorities to do so. I am of opinion that the duty should at once be lowered from its present amount of 2 rupees 8 annas to 2 rupees per maund, the rate which prevails in the North-Western Provinces, the special additional duty of 8 annas, levied on the Allahabad line of those provinces, for the protection of the Bengal revenue, being, of course, discontinued at the same time. I entirely agree with the Board of Revenue, that by so considerable a reduction there would be a much greater probability of the price being at once reduced to the consumer, and a stimulus in consequence given to consumption, than if only a 4 annas abatement were made, as heretofore. I am not at all sure that it might not be ultimately and speedily beneficial to the revenue if the rate throughout the Bengal Presidency and the Punjab were at once reduced to 1 rupee 8 annas per maund, being double the rate prevailing in the Bombay and Madras Presidencies.

The proposal here made was a very moderate one; but he wished it to be understood that it was the proposal of the gentleman only who was appointed to draw up the Report. The Committee was aware that a very large—indeed, the largest portion of the Indian revenues was derived from land. There had always been considerable difficulty in saying how we should deal with the land revenue of India—it was a subject which had puzzled the greatest philosophers and statesmen; but he believed it was the general opinion that throughout the Madras Presidency it would be necessary to have a survey and fresh assessment, and that nothing effectual could be done till that survey was completed. In the meantime Lord Harris had not been insensible to the evils of a too heavy assessment, and he had expressed a desire that a reduction in many instances should take place. The line which Lord Harris had taken on this subject would be best explained by the following memorandum—

“His Lordship had no doubt that if the Government demand was fixed at 25 per cent, or one-fourth of the gross produce, ‘not only would that be no loss to the general income, but that there would be in a short time a large addition to it by the large quantity of land which would be taken into cultivation, and by the increased consumption of articles of import, both of which

would be caused by the accumulation of capital.’ But that the actual loss or gain to Government will be only known after the survey has been made and the assessment fixed; in the meantime, Lord Harris was ‘disposed to think that the general out-turn would be far from unfavourable to Government.’ It would appear that the Madras Government calculated that with four deputy surveyors general, the survey, &c., of the Madras Presidency ‘will occupy twenty-two years, and that its cost will amount to 38,40,000 rupees, but that if the scale of operations is enlarged the period occupied will be shortened, and the total cost will be diminished.’ The papers connected with the proposed general survey of the Madras Presidency were submitted to the Government of India for orders, &c. It appears that that Government had informed Lord Harris of their ‘unanimous’ concurrence with the views and proposals of the Madras Government.”

He believed the best authorities concurred in thinking that without a new survey and assessment it would be difficult to bring about an increase in the land revenue. It was satisfactory to find, however, that they were also of opinion, and Lord Harris among the number, that a reduction of the assessment would have the effect of increasing the revenue. Last year he mentioned that, among the productions of India, there was some hope of finding coal and iron. In doing so, he was guided very much by what had appeared in the Indian papers; but he was happy to find that the statement was corroborated by the opinion of Lord Dalhousie, who counted upon a valuable and abundant supply of both being obtained at no distant date. He need hardly say that if those important minerals were found in abundance in India, they would have an extraordinary effect in facilitating and accelerating the progress of that empire. There was another exceedingly valuable article of growth and manufacture in India to which he would for a moment advert, and that was cotton. Everybody could see the importance of securing from India a large supply of cotton, and he was happy to say that to a certain extent the experiments which had been made had proved successful. He would read to the Committee a note with which he had been furnished on the results of the cotton experimental cultivation in the Bombay Presidency with the New Orleans seed:—

“With the exception of the Dharwar Collectorate the endeavours of the Government to induce the ryots to cultivate the New Orleans seed has not been successful; indeed, in Ahmedabad, Surat, Broach, and other cotton districts, the American plant is reported to have been entirely neglected, or the quantity grown quite insignificant. However, the area cultivated with the indigenous plant was, in 1854-5, in excess of that of 1853-4

in most of the cotton districts. In Dharwar, in 1854-5, the acres cultivated with the New Orleans seed were 63,298, against 41,403 acres in 1853-4, showing an increased cultivation in the former year of 21,895 acres; and apparently the ryots are now so convinced of the advantages of engaging in this cultivation that the American plant may be fairly said to have taken permanent root in this district, and that the indigenous cotton will have to give place to it. Therefore, under these circumstances, interference or aid from the Government to induce ryots to undertake the American cotton culture was no longer required in Dharwar, while in the other cotton districts encouragement on the part of the Government had not led to results of any consequence, or was likely to produce any permanent effect. Moreover, there are now scattered over the country Europeans prepared to purchase cotton, either of the American or native variety, of a quality suited to the English market, at remunerating prices. And further, it would appear that the prejudices of the ryots to the cotton saw-gin for cleaning the cotton was giving way, and that the use of it was becoming popular, as the ryots found that saw-ginned cotton obtained from the merchants a higher price than the cotton cleaned and prepared by the churka or native foot-roller; and that the work was done more speedily with the saw-gin than the churka, and full as cheap."

He also asked the attention of the House to the following very curious experiment:—

"Mr. Landon, a merchant, who has settled in Broach for cotton purposes, has established in that district a factory for making and preparing the saw-gin machinery. He has also erected a cotton factory—an experiment which appears to have been attended with signal success. For, it is stated, the yarns made at Mr. Landon's factory, 'exclusively of short staple Broach cotton,' fetched in the market 'nearly 10 per cent more than Manchester yarn of the same designation;' and that orders had in consequence been received sufficiently to keep the factory in constant work for some months."

Again, he was sorry that the hon. Member for Manchester (Mr. Bright) was not in his place, as he had ever taken a deep interest in this question, and would, no doubt, have been gratified to learn that something was doing towards increasing the cultivation of an article the production of which he had been most anxious to promote. He was not aware that there was anything further in the statement of the revenues of India which he need comment upon. He would only say that he saw nothing to lead them to despair of an increase in the revenue; but, at the same time, it was their duty also to look to other means of producing a surplus—viz., to a reduction in the amount of expenditure. It had been said that it was impossible to lay on fresh taxes in India. He was not so very certain of that, for on looking round he

Mr. Vernon Smith

thought there might be found other things than now existed on which taxes might be raised. But, in the meantime, they had to look to the expenditure. The first great head of expenditure was the Indian army, and he would at once say on this point that it was next to impossible to suppose that they could effect any material reduction in that army. It had been said that a reduction might be made in the way of employing the native army more and the Queen's troops less. Now, he maintained it was necessary that a large proportion of Queen's troops should be kept up in India, and particularly that to substitute Indian cavalry for the Queen's cavalry was a proposal totally inadmissible. He believed that the presence of British cavalry in India was attended with a very wholesome effect; that they were exceedingly useful in promoting the rivalry, in teaching the Indian cavalry lessons of discipline, and exciting them to those habits of order and obedience which were of so much consequence to an army. He was happy to find that the first representation which he had the honour to make to Her Majesty on the subject of the Indian army had been received with great approbation. The Governor General said:—

"The Indian army, however, has still higher cause for congratulating itself on the gracious favour which the Sovereign has lately shown towards it, in raising its officers from the derogatory position in which they have hitherto stood, and in granting to them the recognition which until now has been denied to them, of their military rank in every part of the British dominions, and throughout the world."

Having received that compliment, it would be ungracious in the Indian army to wish to have withdrawn from them the presence of the Queen's troops. There were other questions relating to the Indian army, such as the substitution in greater numbers than at present of irregular for regular cavalry, which were still under the consideration of the Indian Government. He hoped that no hurried decision would be come to upon them. Reductions might be made in the Commissariat, the stud, and other departments; but to reduce in times of tranquillity to too low a scale was a mistake which he trusted would be avoided in dealing with the expenditure of the Indian army. He now came to the civil service. At a former period of the Session he was reported to have said, in reply to the Member for Devonport, that he thought the civil service in India ought to be reduced to the footing of the dif-

ferent colonial services. He never made any such statement. All he said was, that the civil salaries of India had remained almost stationary, while those of the Colonies had been very much diminished. He thought that the Indian civil servants ought to be highly paid, and that the best men ought to be enticed thereby to go out, but he did not admit that the Indian civil service was the only service which required a man to go to a distant and unhealthy country, and which sent him home jaded and worn out. The climate of the West Indies and many other places was, in some respects, as bad as that of India. On the other hand, the salaries of the Indian civil service were upon a scale far beyond that which existed in any other profession. He knew of no other service in which a young man of twenty could enter at £350, or in which a person could rise from £350 to £4000 per annum; but let it not be supposed that he desired anything to be done immediately in the way of reducing the civil salaries of India. To touch existing interests would be the worst possible economy, even if it were not unjust; but it would be the duty of the Indian Government to keep the advantages of reduction always in view, and to reap them whenever practicable. Reduction, it was said, would be followed by peculation. He did not believe it. Lord William Bentinck made great reductions in his time, and no ill ensued. In the worst times of Indian peculation and corruption salaries or allowances from trade were high enough. Economy was a most offensive virtue everywhere, but especially in India. Financial reformers had in England the support of the House of Commons and the public press; whereas in India the only public opinion was that of the civil service itself, which was naturally averse from a reduction of its own salaries. It might be said, indeed, that the only person whose duty it was to preach economy was the unfortunate officer who bore the title of President of the Board of Control. He was glad to state, however, that in June a despatch was sent out recommending very considerable reductions and—which at the same time touched another subject of great importance, allowing public loans to be contracted for public works to the extent of £1,000,000 for the next two years. It was to be hoped that the contents of that despatch would obviate the necessity of sending out an accountant to India. A system of audit already existed there, and

the proposal to establish a separate audit here would require the most attentive consideration, because it in fact took the power from the Indian Government and placed it in other hands. Having thus gone through the revenue and expenditure of India he should now proceed to describe the political position of that country at the present moment. Since his statement last year some disturbances had occurred in India. At that time, speaking upon the authority of the Governor General, he declared that the whole of India was tranquil. He believed he might repeat the same statement now, because in India temporary effervescences could not fairly be said to disturb the general tranquillity of the empire. But it so happened, curiously enough, that at the moment he was speaking last year an extraordinary species of insurrection—known as the Santal rebellion—was in the act of breaking out. To some extent that insurrection showed negligence on the part of the authorities of India. If there had been a proper police, or if the authorities had been warned by certain circumstances which must have attracted the attention of sagacious men, the Santal insurrection might have been anticipated and instantly quelled. An ample report upon the cause of the insurrection had been received from India, and the Court of Directors had written a despatch, stating their views upon it. Mr. Bidwell, the late Commissioner in the Santal districts, who took great pains to ascertain the cause of the Santal outbreak, was of opinion that the primary cause was the great dissatisfaction of the tribe on account of the oppressive exactions of the mahajans, or money-lenders, and the corruption of the naib-sezawals (police-officers and collectors of the land tax), and in some places oppression on the part of the railway employés, and the little check they received from the Government authorities. The Government of India considered that the outbreak was caused by the want of early attention to the complaints of the Santals, of the oppressions they suffered from the mahajans (native revenue and police officers) and zemindars; and in one instance the Lieutenant Governor considered that they had been ill-used by a railway official. The local officers were greatly blamed. The above appeared to have been the exciting causes of the rebellion, fanned by religious fanaticism—the leaders making their followers believe that they were accompanied by an incarnate deity, under

whose orders they acted. Although some few instances of that insurrection had been more recently reported, it was believed that the great body of the Santals were settling down peaceably and quietly. The country had been declared a non-regulation province, and had been placed under the control of a Commissioner, with a deputy Commissioner and four assistants. These officers were vested with judicial powers, and would administer speedy justice to the Santals, who would thus be relieved from the oppressive exactions of the mahajans, police and revenue officers, and zemindars. A new police force was under organisation, and until that was efficient, two regiments of infantry and one of irregular cavalry would remain in the Santal territory. The Santals were not to possess warlike weapons without authority, but were to be employed upon the public works, and paid for their labour. Stores of grain and salt were to be prepared for the destitute Santals, and the payment of the rent was to be thrown over three years. These were supposed to be the causes and remedies of the Santal insurrection, which was an outbreak the more extraordinary, seeing that the Santals had been always regarded as a most quiet and inoffensive race. The next point to which he must advert was the mission to Ava. That mission had not been successful to the extent of obtaining a treaty with Ava, which Lord Dalhousie did not greatly regret; but the reception which we had met with there was everything that could be desired; great honour had been shown us, and the mission had resulted in bringing about that description of friendship which was much wanted between the States. Another point of very considerable importance, to which he had alluded last year, had reference to our relations with Persia. Independently of anything that had occurred in the shape of a diplomatic rupture with Persia, the Persians had, it appeared, thought themselves justified in marching upon Herat. It was not quite clear, from the accounts which had been received—such was the confusion of histories and relations—whether they had been able to occupy Herat. He believed that the Affghans would be so unwilling to allow the Persians to enter Herat that they would themselves repel them; and as Dost Mahomed had obtained possession of Candahar, he would be able, if he liked to attack the Persians in Herat,

Mr. Vernon Smith

to repulse them. It was quite impossible that this country should allow the Persians to obtain possession of Herat. By an engagement which they had entered into in 1853 with the English Envoy, they bound themselves not to interfere in the affairs of Afghanistan; and, therefore, if it were true that they had gone to besiege Herat, they had distinctly violated their engagement with this country, and it was clear that we could not allow our treaties to be trampled upon and our honour to be insulted with impunity. If the Persians, therefore, did not retire from Herat some means must be taken to vindicate British honour and to expel them from that place. In making his present statement he must not omit reference to one of the most important events which had taken place in regard to our Indian Empire—he meant the acquisition of the kingdom of Oude. He had presented, nearly two months since, the whole of the papers upon that subject, and as no Member of either House had thought proper to notice it, he presumed that there was a general consent in the opinion that the acquisition of Oude was a reasonable achievement for Lord Dalhousie to accomplish. Should such not be the opinion, he should be perfectly prepared at any time to defend that step, but at present he should only state the cause of the transaction, and the motives of the Government. Lord Dalhousie, finding from the statements of repeated Governors General, including Lord Wellesley, Lord W. Bentinck, and Lord Hardinge, that the position of Oude was derogatory to the dignity and credit of the Indian Government, and that the different schemes which they had tried one after the other had failed to effect such an improvement as was desired, determined, after eight years' glorious government in India, not to leave that country with Oude in the condition in which he had found it. In consequence, in July last he sent a letter to the Court of Directors, stating his views upon the subject; and that letter, which was backed by unanimous minutes from all his Council, reached this country at the end of September. The persons who coincided in Lord Dalhousie's opinion were the men of all others whose principle was opposed to all aggression upon native princes, who were commonly known as the advocates of government by native rulers rather than of the system of annexation, and among them were General Sleeman, General Outram, and General Low. All

the authorities that could be gathered together agreed that Lord Dalhousie was justified in the view which he took of that transaction. Lord Dalhousie having sent home those reports, the Government did not act upon them immediately, although the pressure was great, because Lord Dalhousie was then about to retire from India. A month or six weeks were spent by the Court of Directors and the Board of Control in consideration. At length, having regard to the prudence and ability which Lord Dalhousie had exhibited during his rule in India, Her Majesty's Government determined to point out to him to some extent what they considered would be the best course to pursue, while at the same time they left an ample discretion in his hands. Lord Dalhousie's conduct proved that the Government had been well justified in placing that confidence in him, because the moment that the power was conferred on the noble Lord he took what he (Mr. Vernon Smith) regarded as a most manly course. He called it a manly course, because it would really have savoured only of hypocrisy to deal in any other way with that unfortunate monarch—unfortunate from his own vices and debaucheries. He (Mr. Vernon Smith) was very indifferent whether that transaction were designated as an annexation, an acquisition, or a cession; but he denied that the Government had any general policy of annexation, if by that were meant the grasping of everything which came within arm's reach. Such was not the annexation of Oude. Men might approve the annexation of Oude and condemn that of Pegu and Nagpore, for each case stood upon distinctive features of its own. He had heard people say that we had no more right to annex Oude than the Emperor of Russia had to annex Turkey; but Russia was not responsible for what took place in Turkey, while we were responsible for what occurred in Oude. For whatever mischief happened within our ken in the East, and which it was in our power to suppress, we were held to be liable; and therefore every evil which existed in Oude, under the eyes of our President, to which it was thought we could put an end, was not unreasonably imputed to our charge. It would not do to hold one morality at Calcutta and another at Lucknow—to say that what was good in one place was bad in another, or *vice versa*; and he was perfectly prepared on these grounds, whenever it should be

questioned, to defend the acquisition of Oude as a most important step, which was rendered necessary by the circumstances of the country. As regarded the condition of the people of Oude since the annexation of that province he would read to the House a letter upon that subject from the Governor General of India, dated May 3, 1856, in which it was stated—

“Oude remains perfectly tranquil. Some of the zemindars holding armed forts, and among them the Thelsepore Rajah, have availed themselves of the option given them by General Outram, and have paid part of their arrears in guns, which are taken at a valuation, although nothing in the shape of coercion or threat has been used to make them do so. The ryots continue, as from the beginning, to show the best proof of satisfaction and confidence, by flocking back to tracts of country which were rapidly becoming desert and jungle, owing to the population being driven away, either by oppression practised on themselves, or by the feuds and ravages of the zemindars in the neighbourhood. I have no doubt this confidence will spread and increase with the progress of our three years' temporary settlement, teaching them, as it will, that their rent henceforward will be fixed and moderate, and that everything they possess beyond that rent will be their own without fear of extortion.”

Since he had last addressed the House upon the subject another lapse had taken place, as the dynasty of the Rajah of Tanjore had become extinct, and there had not appeared to be any necessity for founding a new one. He would next proceed to state to the House what had been the progress in domestic affairs in India since last year. One of the most important questions connected with domestic progress in India, and one which excited the greatest attention in this country, was that of railways, and he would shortly state what progress had been made in that respect. The East Indian Railway had at present 121 miles open, and was in expectation of opening to Rajmahal, a distance of 190 miles, by the end of the present year. The Great Indian Peninsular Railway was at present open as far as Caurpoolie, a distance of ninety miles from Bombay. The Madras line was ready to be opened to Arcot, a distance of seventy miles. The Baroda Railway Company had made great progress in staking out and commencing their line towards Ahmedabad. The Scindo Railway Company had been equally expeditious in the works on their line towards Kurrachee. The surveys for new lines now in progress, or about to be commenced, were that of a line to Nagpore, from the Great Indian

Peninsular Railway Company's line on the north-eastern extension; that of an extension of the present Scinde line to Lahore; and that of a new line from Calcutta eastwards to Dacca. The progress of these railways was of the very utmost importance, and ought in every way to be encouraged. For his own part, he had seen with the greatest pleasure a proposal which had been made a short time back for establishing a railway in India without a guarantee from the Government. The system of always requiring a guarantee for works in India was in many respects a most unfortunate one for that country, because it, to a great extent, tended to discourage private enterprise, besides the heavy charge upon revenue such as he had previously shown to the House. He was not prepared to sanction any scheme which might be proposed, simply because it had been proposed by private enterprise, but every scheme which afforded fair prospect of advantage ought to be, as far as possible, encouraged. The subject next in point of attraction to the railways was the telegraph, and its progress in India had been very curious. The subject of the electric telegraph had been reported on by Lord Dalhousie in his minute of February, 1856, from which it appeared that the electric telegraph had now been in operation in India above a year, and the results were most satisfactory. The construction of the lines commenced in November, 1853, and up to February last 4,000 miles had been completed. The total cost of the work had been upwards of £200,000 sterling, or at the average rate of about £50 a mile. The receipts during the past year have been upwards of £20,000, and they had gone on increasing every month. The estimated cost of working the line was about £30,000 a year. The actual cash receipts, therefore, even in the first year amounted to more than two-thirds of the working expenses, while the charges for messages were lower than on any other line in the world. Dr. O'Shaughnessy, through whose exertions and superintendence this great work has been carried out, stated that he had been perfectly successful in establishing the direct transmission of signals and messages between Agra and Bombay and between Agra and Peshawur—

"So that an answer is obtainable within two minutes from one end of this line to the other through 1,600 miles of line, in which eight rivers are crossed by submerged cables of upwards of 40,000 feet in length."

Mr. Vernon Smith

The Government of Oude was transferred to the East India Company on the 7th of February last. On the same day operations were commenced for putting down the telegraph wire, and within eighteen days a telegraph of fifty-two miles in length, including a cable of 6,000 feet across the Ganges, had been substantially constructed and successfully worked. Dr. O'Shaughnessy had been one of those who had taken a most active part in the establishment of the telegraph in India, and several schemes proposed by that gentleman had not yet been carried into effect. One of those proposals was to connect India with England, and that scheme, if carried out, would enable him to obtain an answer from Calcutta in six minutes and a-half; so that, hereafter, if an hon. Member asked him a question when the House met, he might hope to afford him an answer before it rose. The condition of the postal service in India had been much improved since last year, and he had every reason to believe that eventually communication with India would be more rapid and would be cheaper than with many of the other colonies of this country. There was one other point to which he wished to refer—he alluded to the report of the Law Commissioners. The Law Commissioners had, in the third and last year of their existence, furnished the House and the country with a very able and valuable Report. He had been informed that he had given great, but he must say unintentional, offence to some members of the Commission by sending that Report to India. Now, the House would bear in mind that a great deal must be done by the Legislative Council, and the jealousy of that body was well known. If, therefore, he had acted without their assistance, they would not have been favourably disposed towards his plan; but his object had been as much as possible to work through that body, as being the only way fully to carry out the views of the Commissioners. Some of the proposals of the Commissioners were, from their very nature, incapable of any other but an Indian consummation. In the adoption of this course, he had been justified by the opinion of the Governor-General, who said, that to have acted upon the Report of this Commission without transmitting it to India, would have given the greatest offence in that country. The Indian Government and the Legislative Council would have thought themselves most contumeliously treated. One pri-

principal point was, the amalgamation of the Sudder and Supreme Courts. This amalgamation, if compulsory, might have given great offence, because, while the Supreme Courts were accustomed to accuse the Sudder Courts of a want of law, the latter retorted by accusing the Supreme Courts of knowing nothing of India; and it was most desirable that, if possible, this measure should be carried out with the assent of both classes of courts. While speaking on the subject of amendment of the law, he might mention what had been frequently inquired in this House, that a patent law had been adopted in India, and was waiting for the consideration and sanction of the Court of Directors and of himself (Mr. Vernon Smith). One of the matters on which the Government of India most required amendment was the police, which was, in his opinion, by no means in a satisfactory state. He had already, in speaking of the Santal insurrection, referred to the defects of the police, and he believed that its faults were common to the whole of India. In Bombay there had been established a new system, by which the police would be placed under the immediate direction of the Government; and it was desirable that some experience should be obtained of the working of this system before any alteration was made in the police systems of the other presidencies. The whole subject was, however, under consideration of the noble Lord who had recently gone out to India as Governor General. Another question incident to this one of police was that of the torture, the existence of which had been brought to light by the meritorious exertions of his hon. Friend and colleague the Secretary of the Board of Control (Mr. Danby Seymour). He could assure the House that everything which was possible was being done for the eradication of this horrible system. It was unworthy of any one connected with the Indian Government to extenuate it, or to say that it was not torture, but only bodily pain. All these excuses were utterly puerile and contemptible. Neither would he consent to the fabrication that we had derived it from the native princes. Our business was to improve and to teach the natives how to live. For him, it was quite enough that revenue had been extorted by the infliction of bodily pain. Lord Harris, the eminent Governor of Madras, was perfectly sensible of the horrors of this system, and had taken the greatest pains to suppress it. His (Lord Harris's) opinion was, that

it to a great extent resulted from the high rate of assessments; and that a re-adjustment of assessments would get rid of it. That, however, must be a slow operation, but in the meantime Lord Harris had set a careful watch upon this system, and was prepared to punish with the severest penalties—for there had undoubtedly been a want of severity in the penalties hitherto inflicted, and with dismissal from the service of any person who was convicted of the infliction of torture. The Indian Government, among other instructions, sent out an order that an Act should be passed for the enforcement of severe penalties for this offence. The law advisers thought that such an Act would be useless, and that the only way to suppress this evil was to separate the revenue from the police system. He (Mr. Vernon Smith) thought that this would be an excellent measure to adopt; but it was one which would involve considerable expense and would require much consideration, because we should have to decide whether we would establish an European police or would trust wholly or in part to native officers. He, therefore, could not help thinking that Lord Harris had not decided rightly in omitting to pass the Act to which he had referred. It was true that by regulations, adopted so late as the years 1816 and 1819, very heavy penalties were imposed for acts of torture, but it was clear that these regulations had never been enforced; and he thought that the passing of a new Act would have more effect than the renewal of old ones. He could not help thinking that when Lord Harris himself considered the matter, he would see that if no new Act were passed the opinion would prevail that, as hitherto no notice had been taken of this system, so no attention was intended to be paid to it in future. It was to him (Mr. Vernon Smith) most marvellous that successive Governor Generals, including among them a man of the greatest vigour and assiduity, Lord Ellenborough, should have gone out to India and returned without the slightest knowledge of the existence of this system of torture. He could not attribute it to any defect on their part, but must suppose that it arose from some fault of the system that such a thing should pass without being observed by them. He had been blamed for the strength of the observations which he made upon this subject last year; but he must say that he considered Government responsible for what had occurred under their rule. If

they said they knew nothing about it, that was as good as saying that they did not perform the functions of governors. The next question to which he should call the attention of the House was, that of the introduction of an improved system of education. A new system had been recommended by his right hon. Friend the late President of the Board of Control (Sir C. Wood) in a despatch dated the 19th of July, 1854; and measures had been taken to carry those recommendations into effect by the appointment of directors, inspectors, and visitors of schools, the passing of rules for universities, the distribution of grants, and by other means. In the north-western provinces a new class of schools termed *halkabunda* (or circuit) had lately been established under the auspices of Mr. Reid, the Director of Public Instruction in those provinces; these schools were spreading rapidly over the country. The main cost of them was defrayed by the landed proprietors and cultivators by an assessment, voluntarily contributed by themselves, of 1 per cent on the Government revenue. Mr. Reid believed that, if this subscription could be generally obtained, a school might be established in every fifty and a half square miles of the country with no expense to Government but that of supervision. In the Bombay Presidency public libraries for the use of the natives have now been established in eight different districts, besides eight native libraries in the town of Bombay, which contained English as well as vernacular works, and were supported chiefly by local subscriptions. At Sholapore the subscriptions for a library and an English and Mahratta school amounted to 2,700 rupees, besides books. At Sattara they were 1,200 rupees. Among the Government grants was one of 4,000 rupees, given to the native students' "Literary and Scientific Society" towards a building for a lecture-room, laboratory, museum, and library, for which private subscriptions had been raised amounting to 10,000 rupees. The members of the institution hold a meeting once a month for the transaction of business, and reading essays in English; once a fortnight two meetings were held for a similar purpose in the vernacular. At these vernacular meetings large and interested audiences assembled, to witness experiments and illustrations of natural science, and to discuss questions bearing on the moral and social improvement of the people. Seven girls' schools, at pre-

Mr. Vernon Smith

sent containing 450 children, are supported by the society, and two infant schools were under their superintendence. They already issued two monthly vernacular publications, and had undertaken to publish a series of papers in Mahrattée and Guzerattee, similar to *Chambers's Information for the People*. All this is the more remarkable as coming from a native society, themselves having experienced the benefits of education, and desirous of diffusing its advantages among their countrymen. This was the progress which had been made by education in India. It had not been so rapid as he could have wished, but attention had been called to this by the Home Government, and he hoped that the defect would soon be remedied by the more active exertions of the local authorities. In referring to this subject, he must not omit to notice the consequences which had resulted from examinations for the civil service in this country. He last year stated the result of the first petition for employment in that service. It was, no doubt, a matter of some regret that the number of candidates who had presented themselves for examination this year was not so large as it had been the year before, but it was not to be apprehended that this cause of complaint would continue. In looking back to the examinations of last year he rather lamented the extreme severity of the tests applied. He was bound in sincerity to admit that the questions put to the candidates alarmed him, not only for his own ignorance, but he had been assured that many Cambridge wranglers had been very much surprised by them. Except in the case of the professor of Italian, whom he reappointed, he had thought it advisable to select new examiners, and he had been so fortunate as in this year to obtain the services of one very competent gentleman from Trinity College, Dublin. The result of the examinations might be thus stated:—The total number of candidates examined is 56, whereas last year it was 112 (just double the number). The relative number of the candidates from the principal Universities in 1856 and in 1855 are as follow:—From Oxford, in 1856, 10; in 1855, 19; from Cambridge, in 1856, 14; in 1855, 32; from London, in 1856, 3; in 1855, 4; from King's College, London, in 1856, 6; in 1855, 3; from other English schools, &c., in 1856, 4; in 1855, 12; total, English, in 1856, 37; in 1855, 70. From Edinburgh, in 1856, 1; in 1855, 3; from Aberdeen, in 1856, 2; in 1855, 5;

from other Scotch colleges and schools, in 1855, 7; total, Scotch, in 1856, 3; in 1855, 15. From Dublin, in 1856, 8; in 1855, 14; from Cork, in 1856, 3; in 1855, 5; from Belfast, in 1856, 2; from Carlisle, in 1856, 1; from other Irish colleges, in 1855, 2; total, Irish, in 1856, 14; in 1855, 21. From abroad, in 1855, 3; from at home (private tuition), in 1856, 2; in 1855, 3—i. e., English colleges, &c., in 1856, 37; in 1855, 70; Scotch, in 1856, 3; in 1855, 15; Irish, in 1856, 14; in 1855, 21; abroad, in 1855, 3; private tuition, in 1856, 2; in 1855, 3; total, in 1856, 56; in 1855, 112. One or two particulars with respect to the examinations might not be uninteresting. The plan heretofore pursued contemplated two examinations—the first, a general one; the second to take place after the lapse of one or two years, an examination in law and the Oriental languages. That system was established under the sanction of Lord Ashburton, Mr. Macaulay, and Mr. Lefevre. It was excellent in theory, but when it was brought to the test of practical experience, the second examination was seen to be surrounded with such difficulties that Mr. Macaulay had himself recommended that it should be relinquished. Strange as it might appear, it was not less true that it was found almost impossible to procure the means for a sound legal education in this country. The only substitute was a certificate attesting that the candidate had attended a certain number of lectures, but this was a very unsatisfactory expedient, for such certificates did not vouch for the candidate's proficiency, and were regarded merely as matters of routine. The difficulty as regarded the Oriental languages was almost as great; and another obstacle arose on the question of certificates of moral conduct, it being impossible to ascertain what became of the candidates during the interval between the first and the second examination. Taking into consideration all the circumstances of the case, he determined that the better course would be to give up the second examination altogether, and to send them out after they had undergone one examination only. He had provided a professor of Arabic and Sanscrit, but it was a little discouraging to find that not more than one candidate presented himself for examination in these studies. It was one of the principles on which Mr. Macaulay's minute was founded that in conducting these examinations care should be taken, not to

examine a candidate in anything which, in the event of his being rejected, might be considered as lost time; and very possibly it was the knowledge of that fact which induced candidates to believe that it would not be necessary for them to "get themselves up" in Arabic and Sanscrit. With regard to the mode of examining, he had himself introduced what he deemed to be a very important alteration, a *viva voce* examination. The reason why he had done so was that he had always been of opinion that such a method of examination afforded a better test than any other of a man's moral qualities—his courage, his readiness, his aptitude, his self-possession. He confessed that he was not without his doubts as to whether the plan of competition would furnish any better guarantee for such qualities than the old system afforded; but, at all events, there was some approach to a test in a *viva voce* examination, and therefore he had adopted it. He had attended one of those examinations, and was struck with the readiness and proficiency exhibited by the candidates. Nor was his experience singular. He was happy to say that it was corroborated by the testimony of Mr. Dasey, a gentleman of great abilities and attainments, whose services he had been so fortunate as to secure for the examination of candidates. Mr. Dasey had at first a strong prejudice against the practice of *viva voce* examination, but he now admitted that it had worked well, and that its result was most satisfactory. In justification of this statement, he would read the following extract from a letter he had received from Mr. Dasey:—

"I beg leave to inform you that, in my opinion, the result of the *viva voce* examination in English History has been highly satisfactory. It gives me the greater pleasure to be able to make this statement, because I was one of those who at first thought the amount of *viva voce* examination for the Indian Civil Service disproportionate to the paper-work. Out of fifty-four candidates who answered to their numbers at the *viva voce* examination, I find that seven are classified in my notes as 'very good,' and have obtained fifty marks—the greatest amount which I am enabled to give. Of the rest the great majority are classified 'good' and fair,' averaging about thirty marks. Ten or twelve are 'indifferent,' with about fifteen marks each, and only three are marked 'bad,' and may be considered to have failed. I think this result is worthy of mention, especially as the examination often led the candidates into minute historical details in which no mere *memoria technica*, or cramming, could have given them any assistance."

And the best, by the way, was an Irishman. He confessed that he was much

gratified by the perusal of Mr. Dasent's letter, for he regarded it as a most satisfactory statement, coming from one who was well qualified to pronounce an opinion on the subject. With respect to the general merits of the competitive system it must be admitted that the question assumed a different aspect in India and in England. For his own part, he thought that it was a mistake to suppose that, as a general rule, the civil service in this country opened a suitable field of exertion to men of high ambition and proportionate ability. In India, on the contrary, it did open such a field. There able and ambitious men were needed. The civil service was a fitting sphere for them, and in it they were sure to rise to eminence. He would not be understood, however, as concurring in the opinion which a distinguished Member of that House had not hesitated to express—that patronage was “an odious and a hurtful thing.” He repudiated that sentiment altogether, and rather favoured the doctrine of the right hon. Member for Buckinghamshire—that patronage, well exercised, was one of the noblest attributes of power. What more delightful task could there be than to befriend merit, and to prevent talent from pining in obscurity? It so happened that during the period he had held his present office not a little patronage had passed through his hands. He mentioned the fact for the sake of alluding to a subject brought under his notice last year by the hon. and learned Member for Enniskillen (Mr. Whiteside), who, upon a similar discussion to this, had called attention to the circumstance that Irishmen were totally excluded from the Indian Bench. Finding this statement to be to a certain extent correct, he deemed it his duty to rectify so anomalous a state of things, and of three judgeships in his gift he had presented two to as many members of the Irish Bar, and one to an Irish Gentleman. He had appointed two gentlemen to the Court of Directors as nominees for the Crown; and, though sensible of the distinguished merits and services of Sir G. Pollock, he had not re-appointed him, simply because it was, he believed, the intention of the Legislature that the office should be held only for a stated period, and that it should not be perpetuated in the same hands. He had nominated General Vivian for one of the vacancies in the direction, and Sir Henry Rawlinson to another. He could not quit

Mr. Vernon Smith

this part of the subject without expressing the great satisfaction it had afforded him to engage for his own department the services of so distinguished an Indian administrator as Sir George Clerk. He mentioned these facts to show that the distribution of patronage, which had given rise to so much reviling of late, need not deserve all the reproaches cast upon it. Nothing had been more gratifying to him in all his public life than to be able to select for important public situations men with scarcely one of whom he had been personally acquainted, but whose high qualifications promised to be of the greatest service to India. He felt that he had already trespassed too long for the attention of the House, upon subjects for which, however, his remarks had been far too short to do justice to their unquestionable magnitude. He had passed hurriedly over topics which, if they had related to matters nearer home, might well have occupied weeks in their discussion. As it was, however, he had only to thank the House for the indulgence extended to him. The question of the right government of India was, perhaps, one of the most difficult problems that asked the solution of statesmen. The time had been when the rulers of that vast empire looked to nothing but the amount of revenue which they could extract from its people. Since then, however, thank God, a better day had dawned upon its many races and creeds, whose governors were now endeavouring to accomplish something for their social improvement. To interfere with their religion was to tread upon delicate ground—indeed, too tender to be touched by any man of moderate caution, not to say of even ordinary wisdom. The proper mode of improving their religion was by improving their morality; and this could be achieved only by setting them an example of inflexible honesty and good faith. This was the true policy which the Indian Government had to pursue; and in that policy he trusted they would be successful. He was too well aware that the wheel of political fortune might waft to the heights of Indian authority a man of no more than ordinary understanding and a resolute sincerity of purpose, but he would yield to none in earnest interest for the happiness of the inhabitants of India, early imbibed from those whose talents he could not hope to imitate, but whose zeal he aspired to equal, and now enhanced by the awful responsibility of the trust in his hands. It had

been observed even by practical philosophers that it would be a proud day for England when she resigned to the inhabitants of India, well-educated, civilised, and regenerated, the sway which she now held over them. Such a result he could not anticipate that he should ever live to see. If, however, it occurred in his time, he, for one, should tremble for the consequences. What, then, was his own belief? Why, that it would indeed be a proud day for England when, maintaining her rule over this distant and populous empire, she could yet say that to the utmost of her power she had advanced the physical prosperity of a people which the ancient dynasties of their despots never cared for, and had given them intellectual gratifications which their native rulers never knew. The right hon. Gentleman concluded by moving a formal Resolution, embodying the result of the accounts given in his speech.

SIR ERSKINE PERRY said, that the closing remarks of the right hon. Gentleman must have gone home to the hearts of all who took an interest in the welfare and progress of India. It was deeply to be regretted that so few persons belonging to that category were present in that House. Questions relating to India were, unfortunately, not very popular; and independent members who broached them in that House were almost invariably greeted with a growl from the representatives of the Indian Government. He was glad, however, to see that during the last year that apathy had somewhat given way, in consequence of discussions in both Houses of Parliament, and some valuable steps had been gained. The public mind had at length become impressed with the conviction that the East India Company was no more than any other body of stockholders, having no connection, moral or physical, with India. It was also seen that the Court of Directors was a paid department of the State—a body of trustees for the Crown for the time being, their remuneration consisting partly of salary and partly of patronage. It had likewise been made clear that the finances of England were responsible for any deficiency in the revenues of India; and the Torture Report had shown that the people of that country were very poor, and unable to bear the burdens imposed upon them. It followed from these facts that the Indian Government ought to be as scrupulously economical in its expenditure

as those who administered the funds raised from the English public. The East India Company, however, appeared to be blind to those principles, and were in the habit of treating the revenues of India as if they were still their own corporate funds. Nay more, they claimed to do this without the sanction of the Board of Control. The litigation in which they occasionally took part did them but little credit. In the Dyce Sombre case they recklessly spent enormous sums of money. When the Rajah of Coorg, after his deposition, sued them for his share in one of the public funds of the country, the Company urged a plea which, if put forward by any responsible department in this country, would have aroused general indignation and risked the safety of any Ministry. They asserted a right to appropriate this property of the Rajah as booty of war. That litigation was also commenced by them without the sanction of the Board of Control. Again, when they engaged counsel to resist the claim of the Nawab of Surat before a Parliamentary Committee, instead of giving the ordinary fee of £50 or £100, they gave a retainer of no less than 1,000 or 1,200 guineas. Such a wasteful expenditure of public money would not be allowed in the affairs of England. He likewise very much doubted whether the East India Company were legally entitled to expend the revenues of India either for such purposes as he had just mentioned, or in the payment of pensions to ex-Governors General. By an old statute, which limited the power of the East India Company while they remained a corporate body, with regard to the expenditure of their funds, it was provided that they should not bestow pensions exceeding £600 a year upon any of their servants without the sanction of the President of the Board of Control. A subsequent statute of 1813 enabled them to grant gratuities; but it appeared to him that in 1833, when all the corporate funds of the Company were taken from them, their power to expend money for those purposes totally ceased. He would like to hear the opinion of the hon. and learned Gentleman the Attorney General and the Solicitor General upon this point, and he thought it was the duty of the President of the Board of Control to examine carefully the Act of 1833, with a view of ascertaining what were the actual powers of the Board of Directors with regard to the expenditure of the revenues of India. In

his opinion, the power exercised by the Company in making those grants was unconstitutional, and the pensions which they conferred, chargeable upon the revenues of India, far exceeded in amount those which were bestowed upon servants of the Crown in this country under the authority of an Act of Parliament. It might be said that a pension granted to a deserving Governor General was within the scope of the powers of Government, but in that case the House of Commons ought to be consulted, and if the Court of Directors acted without its sanction, they assumed powers which they did not possess. The Governor General was entitled to 240,000 rupees, or about, with the exchange, £27,000 a year; but if he were in the receipt of any other pension, annuity, or salary, Parliament had directed that that should be deducted from the amount of rupees, so that the salary of the office should be the sole recompense. Now, if Parliament had declared that amount to be the salary of the Governor General, how could a power be permitted to a branch of the Government and the Court of Directors to grant a pension of £5,000 without first consulting Parliament? It was said the President of the Board of Control had power to revise the acts of the Court of Directors; but it was almost impossible for one man to resist the grant of a pension to one who in a few days might become his colleague. Up to the time of Lord Hardinge the power of granting pensions had fallen into desuetude, though he was prepared to admit that £1,500 a year was granted to Sir George Barlow out of the corporate funds. In 1846 a pension of £5,000 a year was granted to Lord Hardinge, under the authority of the 33 *Geo. III.*; but though it came within the words of the Act, in his belief it did not come within the spirit. The recent grant of £5,000 a year to Lord Dalhousie did not even come within the words of the Act, as he was not at the time in the service of the Company. He, therefore, complained that the President of the Board of Control did not exercise sufficient supervision over the Court of Directors in spending their revenues. With respect to the financial statement of the President of the Board of Control it was not calculated to allay those fears as to the condition of the Indian finances which had been excited by the accounts formerly laid before the House. Lord Dalhousie had issued a Minute, comprising 180 paragraphs, which described

Sir Erskine Perry

the condition of India as most flourishing, and, if implicit credit was to be given to the statements contained in that document, no doubt could be entertained of the prosperity of our Indian Empire. They had, however, heard a very different statement that night from the President of the Board of Control, having been told that there would still be a very large deficiency in the revenue for the year. Lord Dalhousie, referring to the deficiency of the last three years, attributed it to the enormous expenditure which he said the Government were now making on account of public works, and he stated that in 1853-54 a sum of not less than £2,325,000, had been expended on those public works. There was a marked discrepancy, however, between that statement and the one published in the accounts laid before Parliament under the sanction of the President of the Board of Control, for the expense of public works, exclusive of repairs and military buildings, was put down at £1,659,771, and military buildings at £293,000, making a total of £1,952,771, while the account presented by the Court of Directors showed for public works a sum of £618,703, and for military buildings £282,376—in all 901,079. Now, he wished to ascertain the cause of that great discrepancy. When he, some time ago, referred to the deficiency in the Indian revenue, he had considerably underrated the amount, for he did not then take into account the deficiency in cash balances which amounted to £5,592,000. In point of fact, the deficiency in the last years for which accounts had been furnished—namely, 1853-54, amounted to the large sum of £8,136,040. Lord Dalhousie, in his Minute, gave the public to understand, that by the territorial acquisitions secured during his tenure of office, £4,000,000 had been added to the revenue of India; but the noble Lord only made out that amount of revenue by not giving one item of charge against it. He did not charge against the revenue one farthing for the expenses of the civil and military government of those territories. He credited the Punjab with £1,500,000 of revenue, whereas it had been shown that there was an annual deficiency of £59,000. For Sattara, he put down a revenue of £150,000, while there was an actual deficiency of £22,000. Nagpore he stated at £410,000, whereas it had been proved that no larger a revenue had been derived than £100,895. On the subject of opium,

of Her Majesty's army, and receive pensions. The foreign legions that had been sent to the Crimea had distinguished themselves as much and had maintained as good order as any troops of her Majesty's service; and no doubt, had the war continued, would have conducted themselves as valiantly as any troops that had been brought into the field. The troops of the foreign legion consisted of 8,552 Germans, 3,013 Swiss, and 3,535 Italians—making together 15,100 men, and the cost of maintaining them was about £1,100 a day. The Swiss and Italian legions, he hoped, would, in the course of a very few weeks, be disembodied. With respect to the German legion, it appeared that a large portion of them were desirous of being transferred to the Cape of Good Hope. Her Majesty's Government thought that such a course was highly desirable, as those Germans were of the same character as the original settlers in that colony. Arrangements would, he hoped, shortly be made to carry out the object of their wishes by making the proposed transfer.

THE BISHOPRIC OF GLOUCESTER AND BRISTOL.

THE EARL OF ELLENBOROUGH begged to call the attention of the noble Earl the President of the Council to the vacancy which had recently taken place in the united dioceses of Gloucester and Bristol. He personally deplored the late lamented event that had occurred. During the last twenty-five years he had had the good fortune to be intimately acquainted with the late Dr. Monk, and he considered his death to be a great loss to the Church. He was a man distinguished for learning, for great kindness of disposition, and for magnificent liberality. He had at heart an object which he (the Earl of Ellenborough) rejoiced to say he, in a great degree, succeeded in accomplishing—namely, the extension of religious instruction in his diocese. When Dr. Monk was appointed Bishop of Gloucester he held that bishopric alone, and he then resided in the middle of the county and in the county town. At that time the right rev. prelate was in the habit of holding constant communication, not only with the clergy, but with the laity of his diocese, and he was thereby in every way enabled to keep a constant and vigilant watch over the spiritual wants of his diocese. He believed that the right rev. Prelate had never at any time any desire to have the

bishopric of Bristol annexed to that of Gloucester. A large palace had been built at Gloucester, which was, he believed, very expensive to keep up, and that circumstance, combined with others, induced the Bishop to reside permanently at Stapleton, near Bristol, and abandon altogether his original residence. The consequence was that, in point of fact, during the last ten or fifteen years, there had virtually been a non-resident Bishop. He would not say that the ecclesiastical duties of the diocese had been neglected; he believed that they had not been; at the same time it was impossible not to feel the absence of that total want of personal communication with the gentlemen of the county which a Bishop was enabled to keep up when resident in a county town; and which increased to a great extent his usefulness. A petition to Her Majesty was at the present moment in circulation throughout the county, and, from what he had heard several months ago as to the feelings of the Members for the county and of the county gentlemen, he believed that petition would express almost universally the sense of the county in favour of the separation of the two dioceses. Under these circumstances, he would express not only the hope, but the confident expectation, that the Government would adopt no measure whatever for the purpose of filling up the existing vacancy in the diocese of Gloucester and Bristol until they had had the opportunity of ascertaining the feelings of the inhabitants of Gloucestershire on the subject he had alluded to.

LORD REDESDALE thought it impossible for any clergyman to carry on the duties of the extended see of Gloucester and Bristol in the manner in which they ought to be performed. The union of Gloucester and Bristol was effected at a time when it was determined that the number of bishops should not be increased, and it was with that object that four sees were united—namely, Bangor and St. Asaph, and Gloucester and Bristol—in order that the two new sees of Manchester and Ripon might be created. In the case of Bangor and St. Asaph the opposition to the union of those sees had proved successful; but the two dioceses in question were not so large as Gloucester and Bristol, and he thought, therefore, that the inhabitants of the latter dioceses had a decided claim upon Parliament for the separation of the two sees.

EARL GRANVILLE said, the question was one of a very difficult character, and one which could not be decided without grave consideration. In several other sees great complaints had been made of the extended area comprised within them, and of the heavy duties, therefore, devolving upon the occupants of those sees. The separation of Gloucester and Bristol was not, therefore, a question to be decided upon by itself; the other cases to which he had referred must be taken into consideration at the same time. All he could say was, that after what had passed there that evening, he had no doubt the successor to the late Bishop, whoever he might be, would be appointed subject to any future arrangements which might be come to with regard to the separation of the diocese.

OUR RELATIONS WITH THE UNITED STATES — REPORTED DISMISSAL OF MR. CRAMPTON—QUESTION.

THE EARL OF CARNARVON: I wish to put a question to the Government on a subject which at the present moment is a source of great anxiety to the people of this country. It is reported that a packet has, within the last few hours, arrived from the United States, bringing intelligence of importance with regard to our relations with that country. I should feel obliged if the noble Earl would inform us whether any such packet has arrived, and if it has, and it be convenient to the Government, if he would give us information as to the intelligence brought.

EARL GRANVILLE said, I understand that the *Asia* has arrived, and that by that packet some news of a private character has been brought, which is not quite clear—not quite intelligible. There is a report, on the one hand, that letters have been received to the 27th announcing the departure of Mr. Crampton; and, on the other, that a telegraphic message was sent on the 28th stating that there was no further news. But it is not quite clear as to what the telegraphic message alludes—whether it means that there is no further news except the dismissal of Mr. Crampton, or that Mr. Crampton's dismissal had not taken place. Her Majesty's Government have received no official information on this subject. Letters, however, will arrive either to-night or to-morrow morning from Mr. Crampton to the 27th; but until then Her Majesty's Government will not be able to give any authentic information on the subject.

MERCANTILE LAW AMENDMENT BILL.

House in Committee (on Re-commitment) (according to Order).

On Clause 1, which repealed the 17th section of 29 *Charles II.*, c. 3, "for the prevention of frauds and perjuries," and the 7th section of the 9 *Geo. IV.*, c. 14,

THE LORD CHANCELLOR said, the noble Lord behind him (Lord Overstone) had presented a petition from traders of the city of London, who complained that this clause would tend to prejudice very much their commercial interests. Their Lordships were aware that this Bill had been introduced in pursuance of the report of a Royal Commission which had been instituted in consequence of complaints from Manchester, Glasgow, and various places in the north of England against the present state of the mercantile law. That Report recommended the assimilation of the laws of the two countries, and, as far as regarded personal property, the repeal of the 17th section of the Statute of Frauds. That section provided that no contract for the sale of goods for a value exceeding £10 should be valid unless it was reduced to writing, or unless part of the purchase money had been paid, or part of the goods purchased had been delivered. Now, in the case of land, it was perhaps desirable to require that all contracts should be reduced to writing; but he did not think that it was so in the case of personal property. At present the necessity of reducing contracts to writing was nullified by the provision that the contract should be valid if part of the purchase money had been paid or part of the goods delivered; and, in point of fact, it was impossible to reduce every mercantile contract to writing. It was true that it was said by some of the most respectable merchants, that they entered into contracts through the agency of middlemen or brokers, and, if it were not necessary to reduce these contracts to writing, contracts might be palmed off on them which they had never authorised. Now, he could only say that he believed that if the present Bill became law, the custom would continue the same as it was at present. The fact that in the north of England nine-tenths of the contracts made were not in writing, and that in Scotland there was no law compelling them to be so, afforded a strong presumption that that portion of the Statute of Frauds was really of no practical value; and he trusted therefore, that their Lordships would not

offer any opposition to the present Bill, for by agreeing to it their Lordships would, in reality, be discouraging, not encouraging fraud.

LORD OVERSTONE said, he should not divide the House upon the Bill; but on the part of the merchants of London, he begged to say that the result of the inquiry which had taken place before the Select Committee had only been to strengthen the opinion of the great majority of the mercantile interest in the soundness of the views which they had all along entertained in opposition to this clause. Merchants were persons whose business necessarily led them to enter into contracts of a very extensive and complicated character. For the purpose of coming to that common agreement on which such contracts must be founded, it was obviously requisite that much preliminary conversation must take place; and the danger which the merchants apprehended was, that those inchoate and incomplete conversations would be forced upon them as binding contracts, there being no written memorandum whatever on which to found such obligations. They believed, if such were the effect of the clause, that they would be precluded from that freedom of discussion which was necessary to every satisfactory commercial contract. In order to prove that portion of the case which he thought was in dispute, he had called before the Select Committee the highest mercantile authorities in the city of London, in respect both to character, to the amount of their business, and the eminence of their abilities; but had he been required to establish the whole case, he should have called before that Committee witnesses from every branch of trade in the city of London, all testifying to the like apprehensions arising out of the peculiar nature of the transactions in their respective branches of business. It would be presumptuous in him to attempt to discuss with the learned authorities in that House the legal bearings of the question; but he was bound to say that the merchants and traders of every kind and description to whom he had referred, who were men of great intelligence and ability, were very capable of tracing out the legal bearings of provisions of this nature, and that they were fortified in all their apprehensions by the authority and advice of the professional persons in the city by whom they were usually guided. Moreover, while

they were prepared to bow with great respect and deference to high legal authorities undertaking to declare what the law was and to administer it, they felt considerable apprehension when the same legal authorities came down to determine what the law ought to be, when they found that the reasons and arguments by which those legal authorities were guided, indicated the absence of a sufficient knowledge of the details of the various transactions of business and of the complicated circumstances which belonged to the course of contracts in each respective branch of trade; and at the same time they ventured to think that they were as competent judges as to what forms were applicable to matters of trade and commerce, and as to what dangers and difficulties would arise to commence from the application of particular forms of law, as the highest legal authorities that existed. He had thought it necessary to say thus much by way of caution. In that House it was impossible to contend against the combined legal opinions which undoubtedly existed in favour of the proposed clause; he had discharged his duty in representing the feelings of the mercantile body in regard to this Bill; and he rejoiced, therefore, that it must go down to another assembly, where the mercantile interests were more adequately represented than in that House, and where the objections to the measure would be more ably put forward, and, he believed, with greater effect than they could be in their Lordships' House.

LORD CAMPBELL said, he had a strong conviction that the Bill would be as much approved of in the House of Commons as by their Lordships, and that by the bulk of the mercantile community the present law was condemned. It did more harm than good; it covered frauds, and did not prevent them. It was an error to imagine that it required contracts for the sale of goods to be always in writing, for it dispensed with it when there was either part payment or part delivery; and necessarily dispensed with it in those cases, for surely if the purchaser had paid his money he must have his goods, or if the seller had delivered the goods he ought to have the price. But these three exceptions ate up the rule, and gave rise to enormous litigation of the very nature it was intended to prevent. Last term the Court in which he presided had been occupied two days on

this question. A horse was bought by word of mouth; and the seller then begged to retain him for a few days, and was allowed so to do. The buyer then refused to receive the horse. The Court held this borrowing of him by the seller equivalent to a delivery, and sufficient to satisfy the statute. The books swarmed with cases of that kind.

LORD ST. LEONARDS remarked, that this showed that the statute had received a large amount of judicial illustrations.

LORD CAMPBELL: At an enormous expense to suitors.

LORD ST. LEONARDS: Then the public have paid a large price for the judicial exposition of this statute, and should not be deprived of it just when its construction was settled.

LORD CAMPBELL: It is more unsettled than ever.

LORD ST. LEONARDS: No wonder if the Court of Queen's Bench take two days to deal with a trumpery case about a horse, such as we have had described. But decisions on such points had nothing to do with the substance and object of the statute, which applied to land as well as goods, and all the objections urged against the sections applying to goods equally applied to the sections relating to land. And some day it would be said, "Why retain the enactment as to land when it has been swept away with regard to goods?" And were their Lordships prepared to say that verbal bargains should dispose of estates? The argument that delivery or payment was proveable by verbal evidence had no weight, for delivery and payment were facts easily proved, and were different from the terms of a contract, which few persons could recollect accurately. He thought the noble Lord (Lord Overstone) did wisely not to divide the House; but he doubted, with him, the policy of an alteration made against the opinion of the great merchants and traders of the city of London.

LORD STANLEY OF ALDERLEY admitted that the higher class of merchants in the city of London were opposed to the alteration of the existing law; but against that he had to state, that no inconvenience had been experienced from the law of Scotland, which was different from that of England; that the practice of the whole north of England was in conformity with the law of Scotland; and that more than a half of all the pecuniary transactions of England connected with buying and selling were

Lord Campbell

conducted in defiance of the law, and without the slightest security that the parties would be able to enforce their contracts. Having stated those facts, he thought he had established a case which called for legislation, and laid a ground for asking their Lordships to supply the mercantile classes with a security which they did not at present possess. If they altered the law as now proposed, no person would be precluded from still requiring a written contract, while the great bulk of the mercantile community would be relieved from a difficulty of which they had long complained.

Amendments made: The Report thereof to be received *To-morrow*.

REFORMATORY AND INDUSTRIAL SCHOOLS BILL.

LORD RAVENSWORTH, in moving the second reading of this Bill, said it would not be necessary for him, on the present occasion, as he had no reason to anticipate any opposition to the measure, to refer in detail to the advantages which might be expected to arise from the establishment of reformatory and industrial schools, by which the endeavour was made to check the source of crime by sending juvenile offenders to these institutions, and removing them from the contamination of bad parents. Such institutions would undoubtedly form one great means of drying up the sources of crime. That crime had recently increased was unhappily proved by statistics, and if that increase had taken place under disadvantageous circumstances—if there had been any redundancy of population or scarcity of employment, or if wages had been reduced—we could not have been surprised at the fact, however we might have deplored it. But at no time had there been such general prosperity in the agricultural, manufacturing, and mining districts, as had existed during the last few years, and yet, in the face of that prosperity, and of all the pains that had been taken to improve the condition of the labouring and mining population, there had unquestionably been an increase of crime in this country. The main objects of the present Bill were to simplify the existing modes of committing young persons to reformatory schools, to give to parents the power of removing their children from one school to another, and to give facilities for the proper identification of children. The Bill, which amended

the provisions of the 17 & 18 *Vict.*, c. 86, and the Scotch Act brought in by Mr. Dunlop, had received the sanction and concurrence of the Government, and three or four of the clauses had been brought in by the Home Secretary in the other House. He anticipated no opposition to the measure, but, should any be offered, he hoped to be able to produce satisfactory reasons why their Lordships should look upon it with favour. He moved that the Bill be read a second time.

After a few words from the Earl of HARROWBY, in approval of the measure,

Bill read 2^a and committed to a Committee of the whole House on *Thursday* next.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Monday, June 9, 1856.

MINUTES.] PUBLIC BILLS.—1^o Appellate Jurisdiction (House of Lords).

2^o Oxford University.

3^o Oath of Abjuration; Excise; Small Debts Imprisonment Act Amendment (Scotland).

REFORMATORY ESTABLISHMENTS— QUESTION.

VISCOUNT NEWPORT said, that as the course to be taken by more counties than one depended upon what were the intentions of the Government with respect to Reformatory Establishments, he begged to ask the Secretary of State for the Home Department whether it was the intention of Her Majesty's Government to make any increased allowance for the maintenance of juvenile criminals committed to such establishments?

SIR GEORGE GREY said, the question had been brought under his consideration some time ago, and he undertook to arrange with the Treasury what would be considered a fair and reasonable allowance for it to make towards the maintenance of reformatory institutions. In settling the question, however, a difficulty arose in consequence of the different rates of expense gone to by different establishments, and which stood in the way of their arriving at an immediate conclusion. Still, the principle which he thought ought to be acted on was, that the Treasury should appropriate, for the maintenance of the inmates of those institutions the same amount as would have to be expended had

they been sent to prison and maintained there at the public expense.

INCUMBERED ESTATES COURT (IRELAND)—QUESTION.

COLONEL GREVILLE said, he would beg to ask the hon. and learned Gentleman the Attorney General for Ireland if it was his intention to bring in a Bill in the course of the Session to continue the Encumbered Estates Commission?

MR. J. D. FITZGERALD said, he must beg to remind the House that at the very earliest date in the present Session he introduced a Bill, having the double object of enlarging and making permanent the system at present in operation in Ireland for the sale of estates, as well as the introduction of other large reforms into the Court of Chancery. The Bill, however, had been referred to a Select Committee, and from that cause, in conjunction with the advanced period of the Session, it would not be practical to carry the Bill through during the present Session. He was aware of the great anxiety which prevailed on the subject, and he likewise believed that it was the unanimous opinion that the system of the Incumbered Estates Court should be continued. He was, therefore, prepared to advise Her Majesty's Government to introduce a Bill to maintain the jurisdiction of the court without intermission for another year.

THE RETURN OF THE TROOPS— EXPLANATION.

SIR CHARLES WOOD said, he wished to correct a mistake which he had fallen into on Friday night. He stated on the part of his hon. and gallant Friend (Sir M. Berkeley) that a message had been received to the effect that the *Princess Royal* had arrived at Malta with a battalion of the Guards on Board. He feared that in that statement he had misled the House, for since then another telegraphic despatch had been received, explaining the actual state of the case as follows. The *St. Jean d'Acre* had arrived at Constantinople, and left for Malta on the 5th, with a battalion of the Guards on board. The *Agamemnon* had arrived on the 6th, and left the same evening with a battalion of the Coldstreams, while a battalion of Rifles had arrived there on its way home. The *Princess Royal* was at Constantinople taking out her lower deck guns, in order to go on to the Crimea for troops.

CIVIL SERVICE COMMITTEE—
QUESTION.

MR. KENDALL said, he would beg to ask the Chairman of the Civil Service Superannuation Committee (the Chancellor of the Exchequer) whether he could inform the House when the Report of the Committee would be laid upon the table, and what had been the cause of the delay?

THE CHANCELLOR OF THE EXCHEQUER said, the Civil Service Committee had completed the evidence on the principal branch of the inquiry, and had decided before proceeding with any more evidence or coming to a conclusion, to refer the evidence to actuaries, to give an opinion as to a question of calculation by which they thought their judgment would be guided. The report of the actuaries had not yet been received, and therefore the Committee were not at present in a condition to pursue their inquiry.

OUR RELATIONS WITH THE UNITED
STATES—QUESTION.

MAJOR REED: Sir, seeing the hon. Gentleman the Member for Inverness-shire (Mr. Baillie) in his place, I beg to ask him if, after the opinion expressed by the hon. Baronet the Member for Hertfordshire (Sir B. Lytton), confirmed by that of the noble Lord at the head of the Government, as to the inexpediency of entering upon such a question at present, it is his intention to raise the discussion of which he has given notice on the Motion for going into Committee of Supply on the Army Estimates?

MR. BAILLIE: I beg to state that it is my intention to call the attention of the House to the question of which I have given notice, as soon as possible after the receipt in this country of the official accounts relative to what has passed in the United States. If those accounts should reach England previous to the bringing on of the Army Estimates, I shall do so then; if not, upon the earliest subsequent occasion.

MR. DISRAELI: I may take this opportunity of inquiring from the noble Lord the First Minister, whether he has now received direct information of the retirement of Her Majesty's Representative from Washington?

VISCOUNT PALMERSTON: Sir, Her Majesty's Government have received no information upon which any reliance can be placed.

THE TIPPERARY BANK—
QUESTION.

MR. BOWYER said, he would beg to ask the Attorney General for Ireland whether Her Majesty's Government had had their attention called to certain observations of the Master of the Rolls last Tuesday on the case of the Tipperary Bank? The Master of the Rolls was reported to have said:

"He could not help expressing his great surprise that the Government had allowed this case to go on so long without interfering. Having regard to the English shareholders, he had no hesitation in saying that if the Government remained longer quiescent—if they did not at once hand the matter over to the first law officer of the Crown—they would be guilty of a gross dereliction of duty. It would be proved to the satisfaction, he felt convinced, of the entire English and Irish public, before he delivered his judgment, that the most nefarious frauds had been committed, and if the Government neglected their duty by passing the matter over they could not complain if the public were to say they had been conniving at what had been doing."

He wished to ask whether the Government intended to take any steps in accordance with, or in consequence of, the opinion of the Master of the Rolls?

MR. J. D. FITZGERALD said, he must beg to apprise the hon. and learned Gentleman that on Friday last he saw in a Dublin newspaper, which had been indirectly transmitted to him, observations similar, as he believed, to what the hon. and learned Gentleman had just read. Immediately upon reading the judgment, acting upon his own responsibility, he communicated with the Crown Solicitor to ascertain when the learned Judge was to deliver judgment, conceiving that he would not have made observations so strong if there had not been good grounds for his doing so. As yet he knew nothing of the case beyond those rumours which met the public eye from time to time in the newspapers. But the course of the learned Judge was quite clear, namely, to order the documents in the case to be handed over to the Crown Solicitor, to be laid before him (the Attorney General) for his direction. He had, therefore, as he said, put himself in communication with the Crown Solicitor, and had directed him, if the evidence assumed the character hinted at by the learned Judge, to inform him, in order that he should be enabled to act promptly and decidedly, and put the law in force against whoever were the guilty parties.

OATH OF ABJURATION BILL.

Order for Third Reading read; Bill read 3^d.

SIR FREDERIC THESIGER: I rise, Sir, to move to leave out all the words from the beginning of line 8 in page 2, and to insert the words of which I have given notice. It is with extreme reluctance I trespass once more upon the attention of the House with reference to this often discussed and all but exhausted subject. If I could bring myself to believe that it was a question of trifling importance—if I could ever feel any indifference to the subject, or permit myself to act upon the suggestions of my own ease and comfort, I should undoubtedly abstain from occupying further time with its consideration. But the more I consider the question; the more I feel the great importance of it, and I am therefore anxious to make one more effort to arrest a step which, according to my view, will be of the most serious detriment to the public interests of this country. I cannot hope to command the attention of the House, for I have nothing of novelty to say to it. All I ask is for its patience and forbearance, of which I have, on former occasions, received a very large share. Sir, it is unnecessary for me to explain to the House the character and nature of the Amendment which I propose; it is sufficiently intelligible. Its object, which must be apparent to every one, is to bring back the oath of abjuration substantially to the form in which it has existed without objection for 150 years, omitting from it those portions which have been objected to upon the ground of having ceased to be of any effect; and I think there are considerations which ought to induce the House to accept the Amendment which I now beg to propose. In considering the question, it may be useful to take a retrospective glance of the circumstances which have brought the question into its present position. From the earliest period of the existence of the Legislature down to the year 1830 it never entered into the imagination of any one that a person not professing the Christian religion could be a Member of the Legislature. In the year 1830, Mr. Grant first brought forward the Motion to relieve the Jews from the disabilities under which they laboured. And I should recommend to Gentlemen who are in the habit of asserting that it is merely by the accidental insertion of cer-

tain words in the oath that the Jews are excluded from the Legislature, to read the account of the various disabilities which are described by Mr. Grant to have existed no longer ago than twenty-six years from the present moment; and it will be found that those disabilities extended to their exclusion from almost every civil office and employment. Mr. Grant was not successful in his first attempt, but he renewed it with more success at a later period—namely, in the year 1836. From that year, however, down to the year 1847, there was a cessation in the agitation relative to the question, although in the intervening time various Bills had been passed relieving the Jews from disabilities and admitting them to certain privileges, amongst others to corporate offices. But in the year 1847 the noble Lord (Lord J. Russell) was returned for the City of London with Baron de Rothschild; and in pursuance of a pledge which the noble Lord gave on the hustings, from that time down to the present almost every year has been marked by some attempt, directly or indirectly, to introduce the Jews into the Legislature. The oath of abjuration was that which furnished what might be called the stumbling-block to the admission of the Jews; and, therefore, in the course of all their discussions it invariably was made the object of attack and animadversion. Undoubtedly there were objections to that oath, arising from a portion of it having become completely obsolete, there being no person in existence to whom it could apply. Unfortunately neither party felt disposed to do that which, I think, ought to have been done—namely, to omit those objections which were patent to all in the oath. Those who were in favour of the exclusion of the Jews from Parliament felt that there was some danger in touching the question at all, for fear of placing that portion of the oath on which they relied in jeopardy. Those, again, who were desirous of admitting the Jews into the House were unwilling to abolish the oath, because by so doing they felt that they would lose a standing argument as to that oath presenting the only impediment for the admission of the Jews. Under these circumstances, neither party was desirous of advancing. The right hon. Gentleman the Member for Manchester (Mr. M. Gibson) taking advantage of this state of things, to use a familiar expression, made himself master of the position. He, there-

upon, determined to cut the knot asunder of the difficulties, by proposing a measure to abolish the oath of abjuration altogether. That oath, however, even by those who are in favour of the admission of the Jews to Parliament, is admitted to contain much matter of the highest importance. It is admitted that it contains the recognition of the Protestant religion, as laid down by the Act of Settlement. There were many hon. Members who were startled at the notion of getting rid of the whole of the oath, and of thereby abandoning the important recognition to which I have referred. But, unfortunately, they consented to the second reading of this Bill, under the expectation that they would be enabled to alter it in Committee according to their wish. The noble Lord the Member for London by this movement of the right hon. Gentleman, found himself placed in a subordinate position with regard to this question. The noble Lord was compelled to work under the right hon. Gentleman, he having got possession of the ground, by which the Jew was to be completely relieved from the disability under which he laboured. The noble Lord objected as strongly as any one to getting rid of those words in the oath which recognised the Protestant succession. The noble Lord introduced in Committee a portion of the oath of abjuration, omitting, however, the most important parts of it, as I am prepared to show, and inserting but a small modicum of the oath of abjuration. The question then is, whether we are content to abandon most important portions of the oath which have been taken by all Protestants and Christians without exception for 150 years, and be satisfied with the tame, meagre, lifeless phraseology which the noble Lord the Member for the City of London proposes to substitute.

Now, what is the nature of this oath of abjuration which we are called upon to abandon? A very great mistake appears to exist upon this subject. It has been supposed that the oath of abjuration is only an expansion of the oath of allegiance. Now, this is an entire misapprehension. The oath of allegiance is an oath which may be taken to the Sovereign by persons of all religious denominations; but the oath of abjuration stands upon much higher grounds. The oath of abjuration says:—

“I do truly and sincerely acknowledge, profess, testify, and declare on my conscience before God and the world, that our Sovereign Lady

Sir Frederic Thesiger

Queen Victoria is the lawful and rightful Queen of this realm.”

Is there nothing significant in this oath? Is there nothing in this portion of it which ought to be retained? The title of Her Majesty to the Throne of these realms depended upon the Protestant character of her ancestors and the Act of Settlement. If it depended simply upon a mere abstract hereditary right, we know that a certain Roman Catholic Sovereign would be at this moment, *de jure*, king of these realms. Now, this is not a mere idle phantom or claim which is assumed, like our claim to the sovereignty of France, and which was continued up to a recent period. It is a vital principle. It is a claim which I shall show you is admitted and acknowledged, and is only not enforced because the time has not as yet arrived when it would be convenient to enforce it. This subject has been introduced to the House before by my right hon. and learned Friend the Member for the University of Dublin (Mr. Napier), and it becomes peculiarly necessary to press it on the notice of the House in order to enforce the remarks I have made in respect to the existence of a *de jure* claim to the throne of England. In the year 1841, some years after the accession of our Gracious Sovereign, Archbishop Cullen, now the Pope's legate in Ireland, published a selection from the Papal bulls for the use of the College *De Propaganda Fide*, and he gave in a preface, which he addressed to Cardinal Frasoni, now I believe at the head of the College, the reasons why he published this selection from the bulls. He stated that it was—

“That all things may be in readiness which may appertain to the right and expeditious management of affairs.”

And he added at the end of the letter—

“That the edition contains all those Apostolic letters which have been promulgated since the first edition down to our own times, and the necessity or opportunity for consulting which may occur in the management of the affairs of the Sacred Council.”

Amongst those bulls which were selected for the use of the College, are two bulls which were published by Clement XIII. in 1759 and 1760. It is very significant that these two bulls are selected amongst eight in all, out of sixty-six other bulls. These bulls so extracted from the rest, and published for immediate use, were bulls as I have stated of Pope Clement

XIII., and addressed to King James, as he calls him, "To our most dear son in Christ Jesus, the illustrious King of Great Britain." In them the Pope informed King James, as he called him, that he had nominated to certain bishoprics in Ireland, and gave his reasons for not mentioning "the King's" name in the letter of appointment. He said—

"That for reasons which his own prudence would suggest he had not mentioned His Majesty's name in the letter of appointment, but that he addressed the letters to him as a pledge that this omission of his name in these letters should not injure or derogate from his right of nomination, but that his right should remain uninjured."

Now, let me ask, why these particular bulls are selected in this extraordinary manner, published, as is stated, for immediate use of the Propaganda, and brought out from the Papal armoury and burnished up by Archbishop Cullen, if this is not intended to be a claim to be brought forward on a fitting occasion? But this is not all. In a book published in Ireland, *De Hiberniâ Dominicâ*, the following most remarkable passage is to be found—the more suspicious from its having been erased from several copies:—

"The heirs of Sophia of Hanover were placed on the British Throne as being the nearest of kin to the family of the Stuarts, who were Protestants. But," added the writer, "there are fifty and more Catholic princes of either sex who enjoy the right of nearer blood to the Stuarts which that most accurate genealogical tree of celebrated lineage which I hold in my hands distinctly exhibits."

I will venture to ask whether you do not believe that Bishop Cullen possesses that genealogical tree, and that the selection of these bulls is not some of the fruit of that genealogical tree? This being the case, we are now to consider whether we, as Protestants and Christians, can believe that those words proposed to be omitted from the oath are insignificant or unimportant?

"I do truly and sincerely acknowledge, protest, testify, and declare, on my conscience, before God and the world, that our Sovereign Lady Queen Victoria is the lawful and rightful Queen of this realm."

Are you disposed to accept this lifeless phraseology proposed to be substituted for the strong and heartfelt assertions of the right and title of Her Majesty to the Throne of England. I believe that the noble Lord would have been as desirous as any one of retaining these words, if he

could have done so consistently with the object which he has in view. We have heard from the noble Lord, on former occasions in this House, a noble declaration as to the sovereignty of Queen Victoria. But the noble Lord is in this situation—he is desirous of getting rid of the words, "On the true faith of a Christian," which constitutes the only impediment to the introduction of the Jew into Parliament; and if the noble Lord introduced all the other words of the oath which I propose, then the noble Lord would have no excuse whatever for not adding those words at the close of it; but, on examining the meagre and unsatisfactory *modicum* of the oath proposed by the noble Lord, the House will see that it is impossible to adapt those words to it. In like manner there are many hon. Members who, being anxious that the oath should be changed for the purpose of admitting the Jews to Parliament, are willing, for the purpose of accomplishing that end, to abandon all the remainder of the oath, which, nevertheless, they do not deem unimportant.

The hon. and learned Member for Sheffield (Mr. Roebuck), on a former occasion, taunted me with not bringing in a Bill absolutely to exclude the Jews from Parliament; and the noble Lord at the head of the Government said that I might bring that question before the House on the Motion for the third reading. Now, in answer to the hon. and learned Member for Sheffield, I have only to say that there is no necessity for the introduction of such a measure, inasmuch as the members of the Jewish persuasion are virtually excluded by the oath of abjuration as it stands. In respect to the observation of the noble Lord (Viscount Palmerston), I would remind him that it would be impossible for me to place distinctly before the House, for its consideration whether or not the Jew should be permitted to sit in Parliament, because that question would be entangled and embarrassed with those questions arising out of the important words of the oath proposed to be omitted. And that shows the wisdom of the course proposed by my right hon. Friend the Member for Buckinghamshire (Mr. Disraeli), who, as we all know, is as anxious as any one in this House for the admission of the Jews to Parliament. But my right hon. Friend not only suggested, but proposed, that the two questions should be separated from each other, and he proposed an Amendment, which would have brought the ques-

tion of the admission of the Jews distinctly before the House, while, at the same time, he would have preserved in its substantial integrity this oath, which had always been taken, without any exception, for 150 years. It is, I maintain, quite impossible to mix up the question of the oaths to be taken by the Christian Members of this House, and that of the admission of the Jews to seats in Parliament. No Member of this House ought to try, by a mere change in the form of an oath to admit the Jews to seats in the Legislature, because the consequences would be, that the Jew would not merely be admitted to a seat in this House, but also to many other offices in the State, which it would be highly objectionable for a Jew to hold. On this particular point I will appeal to the noble Lord the Member for the City of London. In 1847, and also in 1853, the noble Lord sought to guard against danger from the introduction of Jews into that House by certain clauses which would have the effect of excepting certain offices from being held by Jews. These were offices connected with the United Church of England and Ireland—with the Ecclesiastical Courts—with the Universities, our colleges, and our schools. But, even as a Member of the Legislature, hon. Members have not looked sufficiently forward to provide for the duties which would devolve upon the Jew if he were ever admitted into this House. Suppose a Jew were appointed to sit on an Election Committee, which sat *de die en diem*, with the exception of Good Friday and Christmas Day, both of which days, of course, the Jews regard very lightly; but these Committees frequently sit on Saturdays, a day which the Jew venerates as his sabbath. Now, could the attendance of the Jew be exempted under such circumstances? I merely throw these things out as illustrations of the position in which matters would stand by merely acting upon the supposition that the difficulties of the question could be removed by simply adopting the changes proposed in the oath of abjuration, and without regarding all the circumstances which must be taken into consideration before the Jew, if admitted, could take his proper place in the Legislature. It is absolutely essential that there should be a distinction between the oath of a Jew and that of a Christian. When no objection is made so far as the Christians are concerned, why, I ask you, do you propose to remove all the important and sig-

Sir Frederic Thesiger

nificant parts of the oath which relate to Christians only, and from the obligation of taking which they do not desire to be relieved? Now, I feel that I have a right to expect that the support and the vote of the right hon. Gentleman the Member for the University of Oxford (Mr. Gladstone) will be given in favour of my views, because that right hon. Gentleman, in the course of one of the numerous debates on this subject, made the following statement—

“He frankly owned that he was glad the noble Lord retained these words in respect to all Christian Members of the House, considering the solemn duties which we are called upon to perform. He thought the noble Lord had acted wisely in declining to reduce that high standard which we had fixed for ourselves.”

What I ask the House to do is to retain the oaths with the objectionable parts weeded out, and to let the question of the admission of the Jews to Parliament be brought on as a distinct question.

Such is the position in which this question stands; but I am not unprepared to go further with it, if it should become necessary to do so. I am prepared, Sir, to insist on the retention of the words “on the true faith of a Christian,” and to contend that there ought to be no thoroughfare into this House for any one but a Christian man. I am desirous of considering fairly the various arguments which have been brought forward in favour of the admission of the Jews into Parliament; but before I do so I would wish to clear the way by removing a misapprehension which appears to prevail in consequence of the expression which was used by the noble Lord (Lord J. Russell) in the course of the debates on this subject, when he called upon the House to complete the edifice of religious liberty by admitting the Jew to sit in Parliament. A general impression seems to prevail that Parliament for a great number of years was gradually widening its doors for the admission of persons of all religious denominations, and that the Jew is the only person now excluded. Many hon. Members will, however, be surprised to hear that there has been no instance in which Parliament has interfered directly to seat amongst them any person of any religious persuasion, with the exception of the case of the Roman Catholic Relief Act, by which our fellow Christians, the Roman Catholics, are admitted to seats in this House. But their admission had been decided rather upon political than theo-

gical grounds. It is not, therefore, correct to say that Parliament has been gradually enlarging its doors for the purpose of admitting persons of every religious denomination. The Dissenter has never been excluded. Even during the existence of the Test and Corporation Acts there were members of that body in this House. The Unitarian has never objected to take the oath with the words "On the true faith of a Christian;" and in respect to the Quaker certain Bills were passed in the reign of George II., and without reference to the admission of that body into Parliament, by which they were permitted to make affirmation in all cases in which the oath was required from other religious denominations. When the question arose in the case of Mr. Pease, those Acts of Parliament were considered by the Committee to whom that case was referred, and they reported that the language of those Acts was so comprehensive as to admit the Quaker to a seat in this House. This is the first measure brought into this House since that of 1829 in reference to the admission of Roman Catholics, by which an attempt is made deliberately and distinctly to introduce a person into Parliament who was not of the Protestant religion. There is an argument used which I confess it is irksome to me to advert to, and that is one which has been often made on these occasions, and which has been as often refuted, namely, that it is merely by an accident, by the insertion of certain words at the end of the oath, and which had been introduced with quite a different object, that the Jew had been excluded from a seat in this House. I really was astonished that the acute and original mind of my hon. Friend the Member for West Surrey (Mr. Drummond), should have revived this exploded fallacy. If it were not presumptuous to suppose a single combat between the noble Lord the Member for London and myself on this ground, I should say that we have mutually conceded to each other this point, and have brought it to a position in which no argument can arise from the circumstances under which this oath was framed, and that therefore the introduction of such an argument as that to which I have referred is no longer tenable. I have admitted again and again to the noble Lord, that at the time these important words were introduced into the oath, there was no intention by such language to exclude from Parliament members of the

Jewish persuasion; inasmuch as at that time there were comparatively speaking no Jews at all in England; and the noble Lord has admitted on his part that no one at that time ever contemplated the possibility of the Jew being entitled to sit in the British Legislature. But unfortunately this argument was urged upon the very last occasion when this Bill was under consideration. With a view of closing this controversy I will trespass upon the patience of the House by reading the judgment of Mr. Baron Parke in the case of *Miller v. Salomons*, in reference to this point—

"But it is a fallacy to argue that, because the immediate object of the Legislature was to give a more binding effect to a Christian oath, not to exclude the Jews and others than Christians, therefore they meant all such to be admitted, and consequently that the terms of the oath ought to be modified so as to carry that object into effect, and to permit all not of the Christian faith to take the oath in a form binding on their consciences. Nothing was further from the contemplation of the Legislature. The truth is, they never supposed that any but Christians would form a part of either House of Parliament. The possibility that persons of the Jewish persuasion should be peers, or be elected Members of Parliament, probably entered their contemplation as little as that of Mahomedans or Pagans being placed in either category. Both of these are, in effect, on precisely the same footing in this respect as the Jews, and the argument applies equally to them all. In enacting a provision aimed at a peculiar class only of Christians, the Legislature have, in the most positive terms, required an oath from every Member of the Legislature which none but a Christian can take; and this enactment must have the effect of closing both Houses of Parliament against every one but a Christian."

Now, an hon. Gentleman, in the course of the last discussion on this subject, adverted to the circumstance that between the first and the thirteenth William III. there was no oath containing the words, "on the true faith of a Christian," and he argued that during that period a Jew might have taken his seat in this House. I must, however, remind the hon. Gentleman that the Jews at that time were regarded by this country as aliens, and were charged with an alien duty.

I will now proceed to another class of arguments used by the advocates of this Bill. The first generally brought forward is this—that all the subjects of a free State are entitled to an equality of civil rights. Now, Sir, I am prepared to concede that point in the fullest possible manner. But, then, we must understand what is really meant by the term "civil rights,"

because if "civil rights" are intended to include political power and office, then I utterly deny the proposition that the subjects of a free State are equally entitled to the enjoyment of civil rights. Every subject of a free State is no doubt entitled to the full enjoyment of property, to the liberty of his person when he does not offend against the law, to civil and religious freedom within the limits of the constitution. He is equal in the sight of the law with all his fellow-subjects. But political power and office are not the natural right of all persons in a free State. They belong to those only to whom the State thinks proper to assign them. If this principle be not correct, all the qualifications for, or disqualifications to, office in this country are utterly unjustifiable. I think it will hardly be denied that it is competent to a Christian community to impose, as a restraint upon the exercise of a certain office, the profession of a certain religion, and that it is also competent to relax the obligation as to certain offices and to retain it as to others. And, therefore, I hardly think that anybody will venture to maintain that the claim of the Jew to a seat in the Legislature can be placed upon the abstract right of all persons in a free State being entitled to equal civil rights. But, then, it is said, "Oh, you have given judgment against yourselves, even admitting you are right in your decision. You have given political power and office to the Jew, and, therefore, you cannot, in justice, withhold from him a right to the higher office in the shape of a seat in the Legislature." Now it is no doubt true that by various Acts of Parliament we have empowered the Jew to fill the offices of Mayor, Sheriff, and Magistrate; but it is argued, and I think with success, that there is a most important distinction between admitting a person to a subordinate office, and making him, in some degree, supreme, by enabling him to sit in the Houses of Legislature, and assist in making our laws. In the subordinate office the magistrate has merely to administer the law that is made by a Christian Parliament. If such a person be guilty of any violation of duty, he is amenable to punishment. But a Member of the Legislature, in that character, is superior to the law. He has nothing to guide him but his moral conscience and responsibility, and how any one can assume, because by admitting the Jews to

Sir Frederic Thesiger

inferior offices, we are bound to admit them also to seats in this House, I am at a loss to conceive. And, Sir, I cannot help thinking that there may be circumstances which, even in the cases of those subordinate offices to which reference has been made, make the holding of these offices incompatible with the profession of the faith of a Jew. I am sorry to be compelled to advert to this particular subject; I would willingly pass it by; but I feel that I cannot. Sir, I find in the newspapers that on the Thanksgiving Day the Lord Mayor and the Corporation of London went in state to the Cathedral of St. Paul. That was the Lord's-Day, which was selected for the purpose of our "entering into His gates with thanksgiving and into His courts with praise,"—thanksgiving and praise offered up in the only name by which our praise can be acceptable to God. There, seated on high, in the midst of that congregation, and in all the pomp of official dignity, sat one to whom those prayers must have been a profanation and a farce. How is it possible not to sympathise with the devout worshipers in that temple on that day? What must their feelings have been? How distressed must they have been; and how disturbed their devotions at such a sight? Sir, the Lord Mayor's presence there was essential to his office or it was not. If it were not necessary, then it was only a gratuitous profanation of his faith. If it were, then that is a striking instance in which the faith of a Jew is incompatible with the holding of even one of those subordinate offices. And give me leave to say—to remind the House that if we do not ourselves guard against the introduction of the Jew into such offices, we may, over and over again, if the Jew be elevated to the judicial bench, see a repetition of this profanation. That, I earnestly hope, the House will take into its serious consideration.

But, Sir, to pass from that to the consideration of those other arguments which I have heard used in debates on this question. One of them is of rather an extraordinary nature. It is said, "Well, but you have virtually admitted the Jew to the Legislature—at least you have admitted him to a share in the legislation of this country by giving him the elective franchise." Now, I know very well what would be said of me—how such an argument as that would have been characterised if I had used it. To argue that the por-

session of an infinitesimal share in the election of a representative to sit in this assembly and assist in making laws for the country can have the slightest analogy to the giving to the Jew a place in the legislature, and allowing him to take a part in making the laws for this nation, seems to me the most remarkable argument—a most extraordinary—the most subtle argument I ever heard. Theoretically—metaphysically, perhaps, there may be something like a shadow of reason in it; but practically, and to all intents and purposes, it amounts to an utter absurdity. “But then,” it is said, “putting aside the question of the Jew being allowed to share in the election of a representative in Parliament, some electors of large constituencies like that of London have chosen to elect a Jew to represent them in Parliament; and their choice ought to be regarded and their wishes fulfilled.” Now, this is an argument which has been used by the Archbishop of Dublin, (Archbishop Whately) who has most consistently and most honourably maintained the right of the Jew to sit in Parliament; and who has ultimately narrowed the question to this ground—that the choice of the electors is decisive. I ventured on a former occasion to quote the argument of the most rev. Prelate, and was rather roundly taken to task by my right. hon. Friend the Member for South Wiltshire (Mr. S. Herbert), who said that I had grossly, though no doubt unintentionally, misunderstood the argument of Archbishop Whately. Now, Sir, I have read as much as most men of the works of that admirable author; and certainly if there be one thing more than another characteristic of his style, it is the transparent clearness of his language. So that, however I may differ with him, it is quite impossible for me to mistake his language. Since then I have found a partial confirmation of what I said in the preface of a work recently published by the Archbishop—*The Remains of Bishop Coplestone*. In that preface, Archbishop Whately, in referring to different topics on which he agreed or disagreed with the Bishop, says—

“I never could consent to join issue on the question, the only one usually discussed, whether a Jew, or any one else not professing Christianity, should sit in the House of Commons, because I regard that as a question which should be left in each particular case to the decision of the electors.”

Now, if the most rev. author means to say that this matter should be left to the con-

sideration of the electors by the Legislature introducing a law to that effect, undoubtedly he has not expressed himself with his usual felicity. But let that pass; and let us come to the argument. The electors of London say, “We are a powerful and numerous constituency; and we have over and over again deliberately elected a Jew as our representative. You ought to respect our feelings and our wishes, and to accept our choice; and it is highly improper that we should be interfered with by any law of yours which excludes a Jew from Parliament.” With great deference to the electors of the City of London, I beg leave to say, that they have put their case on a most erroneous basis. They may be a very powerful constituency; but they are only a minute fraction in the general constituency of the country. They are not to choose for themselves; but for Parliament and for the nation. They have no right to elect any one who is incompetent to sit in Parliament. If they do so, they act precisely as if they did not exercise their right of election at all. If a claim like that made by the City of London were admitted, similar privileges may be claimed by other constituencies, some of whom may think a miner would be a convenient representative, others a tidewaiter or an alien. In that way the law may be broken in upon according to the wishes of the different constituencies, if we listen to the argument upon which the City asks us to seat Baron de Rothschild.

Now, Sir, I believe I have, as shortly as I could, gone over the various arguments which are usually brought forward when this question is discussed in this House; and the House will observe that up to the present time I have not referred to that which is really the important and the vital question in this case. Notwithstanding the various arguments put forward in considering this matter, it is perfectly clear that the strength of our case rests upon sacred ground. I confess that if it were not for the religious element in this question—if we were not to consider the matter in its religious aspect—I should be perfectly indifferent as to whether the Jew sat in Parliament or not. Our opponents have endeavoured to draw us off the high ground on which we base our case, to bring us down to combat with them on a lower theme; but I confess that I can never consent to abandon the vantage ground upon which we must stand as Christians in this case, or not stand at all. Unless

the religious part of this case operates to exclude the Jews, it is immaterial to me whether they be unnational in their habits and customs. It is a matter of perfect indifference to me whether they be strangers or sojourners in the nation where their lot is cast, looking forward for an inheritance in another land. All that is to me wholly unimportant. In a civil view of the question I would not oppose the introduction of Jews to the Legislature on such grounds as these. It is not on such grounds, therefore, but upon much higher considerations, that I own I base my opposition to this measure. Now, Sir, it is admitted, I believe, pretty generally that our institutions—the institutions of this country—have Christianity for their foundation, and it has been over and over again emphatically said, that Christianity is a part of the law of the land. In whatever sense those words may be understood every one, I think, will be disposed to admit that it would be rather an anomaly in a Christian country, and where the institutions of the country were Christian, if any person who was not a Christian were permitted to take a part in the making or the altering of those laws which are themselves founded on Christianity. But the noble Lord (Lord J. Russell) on a former occasion made use of an argument which I observe is repeated in a leading article this morning in a journal that takes care to give a direction to our debates and tell us the arguments that are to be used. The noble Lord said, “You talk of unchristianising the Legislature. Why, if by admitting the Jew into Parliament you would unchristianise the Legislature, you have, then, by admitting him amongst your people unchristianised the country.” With great deference to the noble Lord, I do believe that had such an argument been used against him, he, by his powers of sarcasm, would have instantly withered it into atoms. To suppose that there is the slightest similarity between the case of those people mingling with your people—or, I should rather say, amongst them, for though the Jews live amongst us they are not of us—not concerning themselves with the Christian religion, not interfering in the remotest degree with the religious observances of the country, but enjoying the benefit and the blessings of a Christian Government—I say, Sir, that to argue that there was the slightest resemblance between the case of a people so mixed up in any way with the people of this country, and that of the

Sir Frederic Thesiger

Jews placed here in the supreme station of Legislators to make laws respecting the religion of this country—to have the power to enact laws to govern a Christian community—does appear to me to be the most extraordinary argument that can possibly be adduced. Now, the noble Lord is obliged to be inconsistent with himself, when he argues as the advocate of the Jews. The noble Lord is deeply impressed with a sense of religion. I am satisfied that the noble Lord is a sincere believer in the Christian religion; but the noble Lord is unfortunately in a false position when, with religious feelings strong in his mind, he is compelled to come forward here as the advocate of the case of the Jew; for, says the noble Lord, in a speech to this House—

“And I shall state more; when speaking of the Legislature which has to dispose of and to control the various interests, ecclesiastical and secular, of the country, religion ought to influence and control the decisions of its members.”

May I venture to ask the noble Lord what religion? The answer is obvious. The Christian religion. That is the high standard to which all our laws ought to conform. That ought to be the guide, the controlling principle of all our legislation; but I can scarcely believe that the noble Lord is preserving that principle pure and simple, when he is endeavouring to infuse into it some little of the Mosaic.

Sir, I look with astonishment at the union of parties whom I see banded together for the one common object of carrying this measure. In the first place, I find the advocates of “civil and religious liberty.” Now, I believe that those Gentlemen are most sincerely attached to the religion they profess, but those who enlist themselves under the banner upon which those words are inscribed, are usually Dissenters and opposed to the Church Establishment. We have in addition to those, certain Gentlemen who are of opinion it would be desirable to emancipate the Church from the State, and to revive Convocations in all their power. There could be nothing more calculated to advance their object than for Parliament once to pronounce that religion had nothing to do in our deliberations, and that the Jew might be admitted to a seat in this House. But, Sir, if once that proposition is maintained by Parliament, I cannot understand how it will be possible afterwards to defend the Church Establishment in connection with the State. Therefore, those two

parties, the advocates of civil and religious liberty and those who desire to emancipate the Church from the State, are bound up together in this alliance, and by different means are pursuing the same end. Associating with those two parties are the Roman Catholics, who, of course, are no friends to the Established Church, and who are, of course, ready to aid in the furtherance of any measure that would promote the object they have in view—namely, the defeat or destruction of that establishment. These, Sir, are the parties to this combination, united together each to advance the particular object it has in view, and all hoping to obtain what they desire by seating the Jew in the Legislature. Now, Sir, I tremble for the consequences of the false step of erasing from the oath “on the true faith of a Christian.” You cannot stop there; other demands will be made on you. The infidel—the man not influenced by any religious obligation at all, but who has what he calls a conscience, which is guided by what he calls his morality—he also will desire relief; he will ask to be relieved of the necessity of all oaths. If you take this step you must yield to him, because you cannot stop short on your downward progress; and ultimately, by its own act and its own admission, the Legislature will have been deprived of its Christian character. By the omission of these words, the Legislature will deprive itself of that great character; and at length it will be becoming avowedly irreligious, by requiring no test at all. Sir, I feel most deeply on this occasion. When I was admitted to this House, I solemnly took the oath at this table “on the true faith of a Christian.” I took upon myself that part of the duty of a Legislator which required me to assume the badge of a Christian. I took it, not for the purpose of a crusade against the religions professed by other persons; but, Sir, I assumed that badge as a pledge that I would defend the sacred interests of Christianity which were entrusted to my care. Sir, I know perfectly well that I shall be charged with being actuated by a persecuting and intolerant spirit. I am not insensible to that charge. I regret most deeply, if my motive should be misunderstood. I have no personal hostility to any one or to any religion; I have no desire to persecute any one. I do not, by my endeavour to preserve the Christian character of this assembly, in any way show a persecuting spirit, because it is

not for the purpose of persecuting the Jew—it is not for the purpose of compelling him to adopt another religion, that I appear here. It is in self-defence. It is in defence of the ark of Christianity before which I stand, and which I shall defend against Jew or any other party by whom I think it is in danger of being assailed. I trust, Sir, that this House will do the same. I hope we shall hold fast to our duty as Christians without wavering in the discharge of the solemn duty that is imposed upon us. I trust we shall not set an example to the people of this country of indifference to Christianity; but that we shall, as their representative, preserve in this House that respect which they outside manifest it for themselves, and which constitutes the glory and happiness of this country.

Amendment proposed, in page 2, to leave out from the beginning of line 8 to the end of line 14, in order to insert the words—

“I, A.B., do truly and sincerely acknowledge, profess, testify, and declare in my conscience before God and the world that our Sovereign Lady Queen Victoria is lawful and rightful Queen of this Realm, and of all other Her Majesty’s dominions and countries thereunto belonging:

“And I do swear that I will bear faith and true allegiance to Her Majesty Queen Victoria, and Her will defend to the utmost of my power against all traitorous conspiracies and attempts whatsoever which shall be made against Her Person, Crown, or Dignity:

“And I will do my utmost endeavour to disclose and make known to Her Majesty and Her successors all treasons and traitorous conspiracies which I shall know to be against Her or any of them:

“And I do faithfully promise to the utmost of my power to maintain, support, and defend the Succession of the Crown against all persons whatsoever, which Succession, by an Act intituled ‘An Act for the further limitation of the Crown and better securing the rights and liberties of the subject,’ is and stands limited to the Princess Sophia, Electoress and Duchess Dowager of Hanover, and the Heirs of her body being Protestants:

“And all these things I do plainly and sincerely acknowledge and swear according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever; and I do make this recognition, acknowledgment, and promise, heartily, willingly, and truly, upon the true faith of a Christian. So help me God,” instead thereof.

MR. BOWYER said, he must complain that the hon. and learned Gentleman who had moved the Amendment had, on a former occasion, thrown out imputations of disloyalty against a distinguished Prelate of the Roman Catholic Church, than whom there was no man in the British do-

minions less obnoxious to such charges. He had accused Archbishop Cullen of publishing a collection of bulls, one or two of which had been promulgated with the intention of asserting the right of the Pretender to the Crown of these realms; and from this act the hon. and learned Gentleman had endeavoured to deduce the inference that Archbishop Cullen, as loyal a man as himself, was disaffected! He (Mr. Bowyer) had been favoured with a letter from the most rev. Prelate, relative to this matter, and would read from it an extract which would place the question in its true light. The accusation, it should be premised, had been made on the authority of Mr. M'Gee:—

"The work to which Mr. M'Gee and Sir Frederic Thesiger refer, is a collection of bulls and other documents connected with the Propaganda, or found in the archives of the Sacred Congregation. It consists of six volumes—I think in 4to. There are some briefs appointing bishops, at the recommendation of the Pretender, which were inserted merely as historical documents not previously published. It would be absurd to suppose they were published as having reference to our times, when the Stuart family does not exist. There are several similar documents in the *Bullarium Magnum*. I think Mr. M'Gee can make very little capital out of such publications."

Besides, it was a collection which would not have been complete without these documents. That statement of the most rev. Prelate would, he was sure, be accepted by the House as a complete refutation of the charge of disloyalty which had been raised by the hon. and learned Gentleman. The charge itself was one of those ridiculous mare's nests which the hon. and learned Gentleman and the two hon. Members for North Warwickshire were in the habit of discovering, and which were frequently left unnoticed by the Roman Catholic Members, from a conviction that their Protestant colleagues generally would, of themselves, through their own good sense, perceive the absurdity of such statements.

LORD JOHN RUSSELL: I am sorry, Sir, to have to trouble the House once more upon this matter, but, as the hon. and learned Gentleman opposite (Sir F. Thesiger) has made an elaborate vindication of his opinions upon this subject, I do not think it would be respectful to him or dignified in this House to proceed at once to a division without taking any notice of his arguments. Let me first observe, that upon this subject the advocates for the admission of the Jews into Parliament stand in a more advantageous position than they did before. The position is this

Mr. Bowyer

—the hon. and learned Gentleman abandoning the old oath—giving up that which is usually taken by Members of this House—proposes a new oath and new securities, and also in the new oath proposes to insert specific words in order to exclude the Jews. Now, that, Sir, I consider is a great advantage for those who are arguing for their admission, because it is a concession that the oath as at present framed cannot be maintained. It is, I assert, perfectly absurd to renounce the Stuarts, of whom none exist, as claimants to the Throne. If we are to have a new oath, to be taken by Members of this House, I think that in that oath we should not go beyond that which is necessary, or at least presents an appearance of necessity, and we should not load the oath with superfluous words and superfluous engagements; but we should only ask, when men come to the table on a solemn occasion, to claim a right to sit in this House as Members of the Legislature, that they should enter into engagements which are proper for us to require and for them to undertake. Now, when I look at the oath proposed by the hon. and learned Gentleman, I find a great deal that is unnecessary. In the oath proposed by the hon. and learned Gentleman are these words—

"I, A. B., do truly and sincerely acknowledge, profess, testify, and declare in my conscience, before God and the world, that our Sovereign Lady Queen Victoria is lawful and rightful Queen of this realm, and of all other Her Majesty's dominions and countries thereunto belonging."

Now, Sir, I hold that to be quite unnecessary. A person who has just taken the oath of allegiance to Her Majesty is called upon to repeat an assurance that Queen Victoria is the rightful Sovereign of these realms. I can well understand there was a time when Parliament thought it advisable—whether wisely or not I will not say—that, as there were persons who, admitting William III. as the Sovereign *de facto*, still regarded James II. as the Sovereign *de jure*, Members who came to be sworn should testify and declare that William III. was the lawful and rightful King. But, Sir, there is no occasion for such words now that the subject of the controversy has long since disappeared. Therefore, I do not think that we should call on the Members of this House to swear that which there is no occasion to swear. The hon. and learned Gentleman then goes on to say in the oath he proposes—

"And I will do my utmost to disclose and make known to Her Majesty and successors all treasons and traitorous conspiracies which I shall know against Her or any of them."

I do not see what especial propriety there is in a Member of this House taking that oath, any more than any other of Her Majesty's subjects. It is the duty of all persons who take the oath of allegiance—of all loyal subjects—to make known all traitorous conspiracies which shall come to their knowledge. The lowest and poorest of Her Majesty's subjects is equally bound to that duty as the Members of this House. There is no reason why Members of this House should be more likely to come to a knowledge of traitorous conspiracies than any other subject of the Queen, therefore, I do not see that that passage in the oath is necessary. Privy Counsellors, and those filling the offices of Secretaries of State, may have means of learning the secrets of traitors, and it would be their duty immediately to take means to counteract the attempts of the traitors; but it is by no means the duty or the business of a Member of this House to make himself peculiarly acquainted with any danger likely to affect the safety of the Crown. But the hon. and learned Gentleman has laid, and properly laid, the greatest stress upon the maintenance in the oath of the words, "on the true faith of a Christian." He adverted—I hardly know for what purpose or to what intent—to the controversy as to whether those words were originally intended to exclude Jews from Parliament. I imagine, whatever the hon. and learned Gentleman may say, that there is no doubt they were not intended for any such purpose. Giving the hon. and learned Gentleman the benefit of the supposition that Jews would have been excluded—if the Jews in the time of James II. had attempted to obtain seats in this House—I think, on the other hand, it must be admitted that the words were not intended for that purpose, but were intended as a more solemn form by which certain Roman Catholics, who were believed not to be loyal to the Protestant Sovereign, would be bound without power of evasion. The words were meant to secure the fidelity of Christians, not to procure the exclusion of the Jews. That is a point of considerable importance, when you attempt to frame a new oath, of which the simple object is to exclude the Jews; but it appears to me the most simple plan is to do what was done under the Common-

wealth, and as is now done in some of the States of the American Union—to compel the person seeking admission to the House to declare and testify that he professes the Christian faith. Under the British monarchy that has never been required; but it appears to me that, if it be intended to exclude Jews from Parliament, that is the plain and simple mode of doing it. No one will dispute with the hon. and learned Gentleman that there are certain qualifications which the Legislature has a right to impose, whether in regard to the holding of offices or sitting in Parliament. But, on the other hand, unless you have strong grounds of exclusion, it is the common right of every subject to enjoy such offices, to obtain such legislative power as the favour of the Crown or the election of his fellow-countrymen may bestow upon him. Any capricious exclusion may have the effect of excluding Englishmen from the just objects of English ambition, and that, as has been truly said, is one of the greatest hardships you can impose upon them. Therefore, you must not only say, "I choose to have qualifications and exclusions;" but you must show that such exclusions are founded on the strongest grounds of State policy, and even of State necessity. That necessity, as to the Jews, I maintain has utterly and completely failed of proof. I have often had before to say that I do not think mere ground of religious faith is a proper ground of exclusion; and I say, in the second place, with the greatest confidence, that, if it were a ground of exclusion, tests and oaths do not enable you to ascertain the religious opinions of any man. I know of nothing in the faith of the Jew, believing as he does in the Old Testament, which should prevent him from doing his duty as a Member of this Legislature, and, with respect to any political acts in which he may be called on to concur, performing that duty faithfully. The hon. and learned Gentleman has done me the honour to refer to an opinion which I gave—that I do think religious obligation is incumbent on this House in its legislation. He looks to that religious obligation in the form of an oath—in precise words. Well, Sir, I do look to it in the convictions and persuasions of this Christian community. I think that, unless the people of this country do feel that religious obligation, you never can create it by means of an oath. If it were necessary, there is no want of illustrations on this subject. At the present time re-

religious obligation is generally felt, whether by members of the Established Church, by Protestant Dissenters, or by Roman Catholics having seats in this House; but if we look back to the time soon after this oath was imposed, what do we see? A man as distinguished for his talents as, perhaps, any Member of this House ever was—Lord Bolingbroke—sat here as leader of this House. I know not whether he had then adopted the opinions which he afterwards, in the most elaborate work, endeavoured to promote, but we know that, when he had adopted those opinions—when he had written that work, it was the ambition of his life to be a Member of the House of Peers, to be admitted to the table of the House of Peers, where he would have said—

“ I sincerely speak these words, without any equivocation, mental evasion, or secret reservation whatsoever, and I make this recognition of my promise, heartily, willingly, and truly, upon the true faith of a Christian.”

Now, Sir, Lord Bolingbroke had no difficulty in declaring those words. Mr. Gibbon, who sat in this House, likewise had no difficulty in declaring those words. My hon. and learned Friend, I was happy to hear, acknowledged, on a former occasion, that with respect to men who do not feel this obligation—who do not feel it to be an immoral act to make such a declaration without being persuaded of it—you can have no security whatever. What, then, is the value of the religious test which the hon. and learned Gentleman is desirous to impose, and what is the justice, what the policy, of saying to a Member of this House, who has been duly elected, and comes to the table and says he does not see anything in the oath to which he objects; but, in fairness and honesty, he must tell the House that the words “on the true faith of a Christian” are not binding on his conscience—what are the justice and policy of telling him, “You are really a man who feel religious obligations—you are clearly a man who will not deceive us—you are acting according to your own belief and faith, and you are totally unfit to sit in this House; but if we can find a man who will dissemble in that respect, and whom we know by his own writings to be totally opposed to every Christian sentiment and every Christian belief, that is the man we will trust?” The argument is one which has certainly been well beaten, because it has been discussed not only upon this question, but upon the Catholic question,

Lord John Russell

when it was maintained, and at length triumphantly maintained, that religious faith ought not to be a ground of exclusion from this House. I am sorry the hon. and learned Gentleman feels it an imputation upon him, yet I cannot but say the exclusion savours as much of persecution—that is, it savours as much of the principle of punishing a man on account of his religious faith as any other persecution of a cruel description, which has been inflicted in past times. I am sorry to see that in the dominions of the King of Sardinia a man has been sent to prison for six months for reading, in the open marketplace, certain passages of the New Testament, because the effect was said to be to bring the Christian religion into contempt. That is an act of persecution, and your exclusion of the Jew rests on precisely the same principle. I do not enter into a defence of the Lord Mayor—whether he was right or wrong in going to St. Paul's on the Thanksgiving-day. No doubt he meant to say, “As Lord Mayor of this great city I am ready to render homage to God, and to join in the celebration of peace so happily restored to the nation.” I have always put this question on the general ground of religious principle. It is rather for the right hon. Gentleman the Member for Buckinghamshire (Mr. Disraeli), who, on the peculiar ground of the merit of the Jews, always advocates their cause, and always votes in their favour—it is for him, rather than for me, to show the merits of the Jews. I do not claim their admission to this House as a sort of indulgence, I claim it as a matter of right and justice; and I do trust the smallness of their numbers will not prevent their having that justice granted them which was granted to the Roman Catholics when their claims on the ground of religious liberty were too powerful to be longer resisted. Sir, I entirely oppose the Amendment.

MR. WARREN: Sir, I should certainly have contented myself with recording my vote this evening, if I had not thought the question before us of such grave importance as to justify a brief statement of the grounds on which that vote will be given; but I feel heavily discouraged while venturing to follow the noble Lord the Member for London in the debate. Sir, the claims of the Jews to sit in our Legislature have, during the last quarter of a century, been repeatedly and earnestly urged, and as resolutely resisted,

without reference to party considerations, by the most distinguished men of the age—by as enlightened statesmen and as devoted Christians as ever adorned either House of Parliament—and among the latter I would undoubtedly class the noble Lord the Member for the City of London, who has been so prominent an advocate of this measure, and than whom, I believe, no more sincere and earnest Christian sits in this House. The question, therefore, must be one of serious difficulty, and involve considerations of proportionate weight and magnitude. Having always felt a profound interest in that question, I have from time to time read, I believe, everything that has been said on it, in this and the other House, weighing every argument carefully and dispassionately, sincerely anxious to form a right judgment on the matter; for I avow that I cannot bear to see any class of my fellow subjects unjustly denied or deprived of a right, or a trust, (between which there is a fundamental distinction necessary to be borne in mind in these discussions) which they properly regard as one of transcendent importance and value. No true Englishman can look with indifference on persons so situated; and his sympathies will go forth towards them all the more eagerly, if he find the demand for justice preferred with persevering moderation and dignity. He will be disposed to look with a certain sternness upon the reasons relied on as justifying the exclusion of a British-born subject from the British Legislature; and will not yield to them, unless his reason and conscience recognize their overwhelming cogency. That, Sir, is the spirit in which I approach this question to-night. And as for the Jews, so far from entertaining prejudices against them, I regard them with feelings akin to awe, as I watch them—the most marvellous of the dwellers upon earth—intermingling inoffensively, but never identifying themselves, with other nations, and fulfilling, and yearning for the accomplishment of, their own grand and mysterious destiny. I cannot think or speak of them with levity—I would not willingly wrong them in act or word; for if I could, then, while they might be true Jews, I should be no true Christian.

But, Sir, in these few words, I conceive, is to be found the true point—the true pressure—of this great question. If he and I be true to our respective faiths, then I think there is a fatal incompatibility of principles, pretensions, and qualifications for being brother legislators—regard being

had to the true nature and objects of legislation for a Christian state. Whatever he could prove to be, in the opinion of a liberal and enlightened people, a wrongful disability has been removed. He is now placed on a level with our best fellow-citizens in point of personal security and social position; he is clothed with rank—even hereditary rank—and dignity; he sits in the chair of magistracy, and at this very moment the highest chair of the magistracy of London is filled by a distinguished friend of mine of the Jewish faith, who discharges his duties in a way to command the respect and admiration of everybody; he wields, at will, a money power that gives him vast influence here, and controls some of the greatest operations of other States; and as for religious freedom, why, “he sits under his vine and under his fig-trees, and none dares to make him afraid.”

Emboldened by these concessions, he now demands to become a law-giver for Christian England;—but there I pause, and tell him that “between him and me there is a great gulf fixed.” I cannot help it. With “the true faith of a Christian” are bound up all my hopes of happiness here and hereafter; while that faith is to the Jew a stumbling-block, lying ever in his way, when he would act as a legislator for the Christian. What is heavenly truth to me, is gross falsehood and imposture to him; what inspires me, blights him; for he sees in it only impiety and blasphemy. How, then, can we act together, while our sanctions, our impulses, our objects, are different? And how can our Legislature be expected thus to become “a fountain sending forth, at the same place, sweet water and bitter”?

Sir, disguise and blink it though any one may, the Bill before us tends directly to obliterate and repudiate these vital differences—these vital principles—as sources of legislative inspiration and action; to place the Legislature of England on a footing which it has never occupied before. It seeks to effect an organic change in our political structure, involving its whole character and constitution—it would alter the distinguishing characteristic of our State, and of its sovereignty—by either eliminating from it an essential constituent, or introducing a foreign, incongruous, and destructive element. What is meant by the sovereignty of a State? Its supreme power or authority—in other words, its legislature; for sovereignty and legislation

are convertible terms. Where the power of legislation resides, is the seat of sovereignty, and in legislation, you see sovereignty in action. And as a State is as much a moral being as any one of the individuals who constitute it—a moral being, whose voice is its laws; it is guided by certain motives and objects; it has a character, involved in, prescribing, and guaranteeing its course of conduct.

Now, what is the great and glorious characteristic distinguishing our State of England? Christian, essentially and professedly Christian, if there be any meaning in words, and any reality for words to represent. Founded and built up during a long succession of ages, by Christians exclusively, it derives its character from their principles, feelings, and convictions; the holy gospels illuminate every chamber of the building; the Christianity which they enshrine is the very key-stone of the arch of our laws and institutions, supplying vital sanctions; we legislate on its principles, and in its spirit; no one has ever entered the legislative chamber but under an express pledge, or absolutely necessary implication, of Christian belief; we are always summoned to consult concerning the welfare of the Church of Christ; we begin our daily deliberations with prayers offered to, and through, the mediation of the adorable Head of that Church; the prayers of this Christian country daily ascend on our behalf to Him, like incense, and England feels that those prayers have been answered; or how could this nation have become so great and glorious? Again, the Sovereign, on ascending the Throne of these realms, gives the most solemn pledge conceivable, of fidelity to Christianity; kneeling, placing her hands on, and kissing the holy gospels, Queen Victoria swore upon them, as all her ancestors have done, “to maintain, to the utmost of her power, the true profession of the gospel.” What would be thought of some future Sovereign wishing that oath to be omitted, as he had no faith in the gospel, but, on the contrary, believed it false? Would he be a Christian King? or allowed to sit on this ancient and glorious Throne of England! Never! And would that be a Christian Legislature of which such an apostate was, in Lord Coke’s language, *caput, principium, et finis*? Well, and how is it with the other two branches of the Legislature? For 150 years no one has ever sat in either House who had not avowed, on his solemn oath, his Chris-

Mr. Warren

tian belief, unless he has been relieved from doing so under circumstances demonstrative of his fidelity to Christianity. About the Roman Catholic there can, of course, be no question; and Quakers, Moravians, and Separatists, are relieved from taking any oath, absolutely for no other reason than their scrupulous and reverent obedience to a supposed command of their Divine Redeemer! In the case of the excellent Mr. Pease, he expressly declared before a Committee of this House, on oath, in 1850, “I agree in matters of faith with the Church of England, though not as regards her discipline and rites.” And beyond the 150 years to which I have referred, our earliest records show that Members were sworn on either some symbol of the Christian faith, or the holy Gospels. Having regard to all this, how can I concur with the right hon. Gentleman the Member for the University of Oxford, who, in his powerful and elaborate speech in 1848, in this House, declared that—simply because we had latterly enlarged our borders, so as to include all classes of persons “calling and professing themselves Christians”—our Legislature is no longer exclusively Christian? Sir, with sincere respect for the right hon. Gentleman, I deny it altogether, and challenge proof of such an assertion. I affirm the contrary, and aver that every existing Member of either House is estopped from denying it, by the oath he has taken. It is true, a man may possibly stand at that table, and in his eagerness to obtain a so greatly coveted seat here, be frightfully guilty of repeating, as true, words which he disbelieves. If he do, I cannot help it; to his own master he standeth or falleth; to Him, his Almighty judge, he must answer in the last day. There is no oath that can be devised or administered which an impious man may not violate or take falsely. But, Sir, look closely into what we are required to do. When challenged to it, we must deliberately and solemnly discard that only visible safeguard of our Christianity, which now keeps out the Jew—and not only him, but the Mahomedan, the pagan, and, worse than all, the avowed apostate infidel—who plainly avows that ours is a false form of religion. Now, Sir, what are all the convulsive struggles of the Jew to get rid of these—to him—excruciating words, “on the true faith of a Christian,” but really so many evidences of their inestimable value to us, and of the paramount necessity of retain-

ing them? Surely, surely! if the defenders of a beleagured fortress saw the besiegers steadily concentrating their fire on a particular point, would not that show the immense importance they attached to effecting a breach there, and make the besieged instantly direct their utmost energies to protecting and strengthening the point so seriously menaced? And what would be their joy to discover suddenly that it was, in fact, their strongest point—that there was a secret, and, to themselves, unsuspected means of defence? And, Sir, thus I regard this famous expression, “on the true faith of a Christian,” peremptory, stringent, and comprehensive as it is; though, undoubtedly, not originally used expressly for that purpose, it now constitutes a solid buttress, the strength of which has been tested, to the citadel of our Christianity. I thank God that the words are on our Statute-book; I am trying to keep them there; but, after all, they are simply declaratory of what was always there, significant of the essence and spirit of our constitution. It reminds me, in this respect, of Sir Edward Coke’s fine observation on the oath of allegiance, which, he says, is but an external profession of what the finger of the law had already written in the heart of every subject.

As we, Sir, are a Christian State, if such a thing there can be, let us test the argument on which the present claim is founded, by putting the case of a Jewish State, consisting exclusively of sincere and zealous Jews. Let us imagine an equally sincere and zealous Christian demanding a seat in the Sanhedrim, and that, to enable him to take his seat, an oath pledging its members to “the true faith of a Jew” should be abrogated. What consternation in the Sanhedrim! Would it be done? or regarded as impiously presumptuous? How mightily would they reason out of their ancient scriptures to show that, were they to yield, they would be false to their faith, and abrogating the high and holy law under which, at an awful juncture, the high-priest rent his clothes, saying, “he hath spoken blasphemy!” and he was judged guilty of death. They would say, no; we cannot, we dare not do it; we should cease to be a Jewish State—our purity would be defiled—we should have introduced a new and corrupting element, and be recognising claims which the word of God commands us to hold in abhorrence. Is not this, Sir, an exact

parallel to the case at this moment before us?

And, moreover, if it be, what becomes of the favourite argument derived from the small number of Jews who might be introduced? It is nothing—it is an impertinence. Is this, I beg to ask, the way to reason on principle? Admit a solitary Jew, of right, as such, and the exclusive distinguishing principle—the very bond of our being, as a Christian State—is gone; you have surrendered at discretion, and the Jew will proclaim his victory to the uttermost parts of the earth, where you are busied propagating the Christianity over which he has triumphed! And he will presently tell you that you must alter and surrender a good deal more to meet his views!—the prayers, for instance, with which we commence our daily deliberations, and which he will regard as offensive and insulting to his faith. “One of the unavoidable consequences of this measure,” said the late Sir Robert Peel, in opposing the first Jew Bill in 1830, “will be, that every one of the forms and ceremonies which give us assurance of Christianity must be abolished.” And let me ask with unspeakable anxiety, that you would consider what effect that would have on public opinion—that public opinion on which, as Mr. Hume truly tells us, all Governments of whatever form are founded. It would probably soon lead to lowering the influence of Christianity on that public opinion, and, once lowered there, how long will it continue as a vital principle in the State?

But, Sir, even this is not all. What a perilous precedent we are called upon to establish! Consider the principle you will be sanctioning: one loosening the very foundation of oaths, which have been in all ages, and under the express sanction of Scripture, used for the highest and most momentous purposes known among men. Why do you exact an oath from the Sovereign? Why from a legislator? Because, by the act of becoming such, he is incorporated with the sovereignty of the State, and contributes individually to determine its character and action. He is, while acting in that capacity, under only moral sanctions, amenable to the dictates of his conscience, and of God alone. And before investing him with such, comparatively speaking, irresponsible power, it is reasonable and right that we should require—for a guarantee of his character and acts as a legislator, and as evidence

against him in case of treachery—that he should publicly and solemnly call God to witness that he holds such and such a belief, and will pursue such and such a course of action. Now, Sir, if a Jew is to be relieved from the Christian's oath, because he says, "I do not believe in him whom you call God," what—I implore you to consider—are you to answer by and by, when your approaches are defiled and darkened by a very different character, who says, holding this Bill in his hand, "Now admit me! and without any oath at all! For, as the Jew does not believe in the God of the Christian, I do not believe in the God of the Jew! I believe in no God at all!" Are you to admit the impious applicant? And yet claim to be deemed a godly—or will you become professedly, a godless Legislature?

Sir, I foresee disastrous consequences dependent on the course we are this night called upon to adopt. I content myself, however, with one, vouched by the right hon. Gentleman the Member for the University of Oxford, in 1843. After admitting that our having to legislate on matters of religion, and concerning the Church, constituted a real and practical difficulty in the way of admitting Jews to seats in this House, he stated that, undoubtedly, one direct result to which such a step would lead, would be the separation between the Church and the State! Now, Sir, is the House—is the country—prepared for such a result? one which I believe would be a sort of social suicide; and tend to the dissolution of the State itself!

Sir, for these reasons and many others which I could assign, but that I perceive the anxiety of the House to come to a division, I can never bring myself to sanction the admission of the Jewish element into the Christian Legislature. I entreat hon. Members, in conclusion, to consider carefully the consequences, immediate and remote, direct and indirect, of assenting to the Bill as it lies before us, and without the Amendments of my hon. and learned Friend (Sir F. Thesiger) a step which undoubtedly will open the doors of the Legislature of this Christian country to Mahomedans, and pagans, and even professed infidels, as well as Jews, and the effect of which will be, I fear, fatally to affect the national faith, and in so doing sap the foundations of the national greatness.

MR. BYNG said, he should support the third reading of the Bill as he considered

Mr. Warren

the effect of the existing oath was to exclude from the House Members of the Jewish persuasion who had been returned by large and important constituencies, and whose conscientious scruples prevented them from taking the oath in its present, although they were ready to take it in a modified, form; while it did not exclude persons who rejected the Scriptures as the revealed word of God, and who, disregarding the solemn obligation of oaths, were ready to subscribe to them.

MR. T. DUNCOMBE said, it was admitted on all sides, that all parties were ashamed of the oath of abjuration, and there was no occasion to discuss that question any longer. It was therefore to be hoped that the country would no longer see 654 gentlemen professing to represent the intelligence of the people, and a large number of high and distinguished persons representing the hereditary wisdom of the nation, solemnly calling upon God that they abjured any allegiance to persons who they knew had long ceased to exist. It appeared, however, that Gentlemen opposite admitted that it was not the family of the Stuarts of whom they were apprehensive, but that they had an insurmountable objection to the house of Rothschild. But the hon. and learned Gentleman (Sir F. Thesiger) who had moved the Amendment had not told the House how he got over the difficulty of the citizens of London having returned a Jew to Parliament. The citizens of London did not participate in the prejudices of the hon. and learned Gentleman, and they had returned a Jew to represent them in Parliament during nine sessions and two Parliaments. It was degrading to the representative of the city, insulting to the citizens of London, and humiliating to the House of Commons that matters should remain as they were. Suppose that 100 Members of the Jewish persuasion were returned by the constituencies of this country, would the House allow matters to continue in their present state? The hon. and learned Gentleman had alluded to the fact that the Lord Mayor of London had attended at St. Paul's on Thanksgiving-day. He was afraid he should shock the hon. and learned Gentleman much more when he told him that Christian congregations in the city sometimes selected churchwardens of the Jewish persuasion to administer the affairs of a Christian Church. Mr. Keeling, a Gentleman of the Jewish persuasion, had been elected churchwarden for

two parishes—St. George, Botolph Lane, and St. Magnus the Martyr—on two or three occasions. He wrote for information on the subject, and received a letter from Mr. Keeling, which he would take leave to read to the House:—

“Dear Sir,—The parishes I have represented are St. George, Botolph Lane, and St. Magnus the Martyr, London Bridge; to the latter I was re-elected on Easter Tuesday last. The duty involves the safe guardianship of the church, and properties connected therewith; the proper observance of the service in conformity with existing laws; to levy rates for its support, and, if necessary, to enforce the payment of them; to report to the bishop of the diocese any neglect of duty on the part of the ministers; and the declaration made before the registrars of the bishop to carry out these regulations is framed in so liberal a spirit that it has been most conscientiously subscribed to by me, in company with my Christian colleague, without the least sacrifice of my religious scruples. I may say I have faithfully performed the duties of the office to the satisfaction of the rectors and the parishioners generally.”

But that was not all. Two or three Sundays ago the Bishop of Lichfield preached a sermon in the church of St. Magnus the Martyr, on behalf of the education of the children of the parish. The Lord Mayor attended there also, and it was of course the duty of the Hebrew churchwarden to receive the bishop with all the honours of the Church. The Bishop left the church without being un-christianised, a subscription was made and Christian education was aided by the exertions of the Jewish churchwarden. He believed that the cause of religion would not suffer very materially if they allowed some few members of the Jewish persuasion to have seats within the walls of the House of Commons. He was glad upon this occasion to see the noble Lord the Member for the City of London come to the rescue. Last year the noble Lord seemed to despond, but he hoped there was now some reason for believing that this question would be settled during the present Session in the other House of Parliament. It must be remembered that an unreformed Parliament had repealed the Test and Corporation Acts, and had conceded Catholic emancipation. He hoped that a reformed Parliament would not perpetuate the last relic of bigotry and intolerance which prevented the admission of Jews into the British Legislature.

Question put “That the word proposed to be left out, stand part of the Bill.”

The House divided:—Ayes 159; Noes 110: Majority 49.

Bill passed.

CAMBRIDGE UNIVERSITY BILL.

Order for Committee read.

House in Committee.

Clause 27 (Colleges to have power to frame Statutes).

MR. STAFFORD said, he wished to move, by way of Amendment, the omission from the clause of the words, “without prejudice to any existing interest of any member of such college.” He trusted that the Government, notwithstanding those words were in the Oxford Bill, would enable the fellows and masters—in short, the governing body of the colleges at Cambridge, to set a better example (by the omission of those words) than that of occupying the invidious position of showing themselves willing to inflict on others that which they would be unwilling to bear themselves.

MR. BOUVERIE said, that those words were in the Oxford University Act, and had been introduced into the Bill from a respect for the vested interests which the masters and fellows of colleges had in their offices and fellowships. He believed that in the long run the ultimate advantage of these institutions would be promoted by respecting those interests.

Amendment *negatived*.

MR. HEYWOOD said, he thought that the Statutes hereafter to be framed by the governing bodies of the colleges ought to be in the English instead of the Latin language. He should therefore move the insertion of the words “in the English language” after the word “Statutes” in the same clause.

MR. BOUVERIE said, he thought the matter might be safely left to the Cambridge authorities. If they liked to make their Statutes in the Latin language, it was to be hoped that Cambridge men, including his hon. Friend, would be able to read them. He thought it would be better that the Statutes should be made in English, but he did not think it desirable for Parliament to make a stringent rule on the subject.

Question put, “That those words be there inserted.”

The Committee divided:—Ayes 58; Noes 74: Majority 16.

MR. WIGRAM said, he would move the insertion after the word “following” of the words, “due regard being always had to the main designs of the founder or donor.” His object was not to abridge the powers given to the governing bodies of colleges, but to prevent them from disregarding the

intentions of the founders. As an instance of the abuse to which the powers granted in the Bill might give rise, he would refer to the 30th clause, which enabled the University to make new rules with regard to endowments, among which was specified the endowment of the offices of Christian preacher and Christian advocate. Now he should not be averse to new rules which were in keeping with the intentions of the original founders, but if the endowments he had just alluded to were to be applied to a professorship of chemistry or botany, or the like, such an application would be a gross and most unjust disregard of the views and intentions of the founder. He denied that Parliament had morally any right to interfere with these endowments without adhering to the conditions upon which the donors gave them. The words he proposed to insert in the clause were not exactly to be found in the Oxford University Act, yet in that measure there was a plain intention that regard should be had to the designs of the founders. The principle he asserted was, that if you accepted a gift of this kind, you were bound to abide by the conditions annexed. That principle ought to be equally observed, in his opinion, even in the case of what were called "local preferences." It was objected, that if you adhered to these local preferences you might be inflicting upon a college persons not qualified by their learning to become members of the college. That, however, was a fallacy, because it had been repeatedly held that, whatever conditions of this kind were annexed to a college benefaction, there was always also annexed to it the implied condition that a person should be *dignus*—that he should be a suitable person to introduce into the college—and unless, therefore, he were a person of that sort the college would not be compelled to award him any of those emoluments. Another objection urged to the principle he sought to maintain was, that it might throw you back upon obsolete schemes long since fallen into desuetude. Such an argument, it was his belief, had no foundation whatever. In all those cases the reason why the old practice had fallen into disuse was because, from the change of circumstances it had become unsuitable to the present time, and if it had become unsuitable and inapplicable to the present state of things, he was quite willing that it should be altered. To meet the objection he had alluded to, he was ready, if it were desired,

Mr. Wigram

to adopt an express provision that, in determining what were to be considered the main designs of the founders, any scheme or regulation which had fallen into disuse for a period of, say fifty years, should not be regarded. Nothing was further from his intention than to drive back those foundations to forgotten usages which would be unsuitable to the time and contrary to the interests of the University. The principle involved in his Amendment was a very grave one, and he trusted that it would have the favourable consideration of the Government. He proposed it with no desire to impair the efficacy of the Bill, or to diminish the fair powers which were to be given to the Colleges or the University, but merely for the purpose of maintaining those powers within a reasonable limit, and to prevent the establishment of a precedent which might be made use of in other cases to the prejudice and subversion of the just rights of property.

MR. BOUVERIE said, he willingly admitted that this was an important question, and he thought that a great deal of the efficiency of the Bill would depend on the clause being retained without the addition of the proposed Amendment. The hon. and learned Member (Mr. Wigram) seemed to give up his whole case when he said that, with respect to many of the foundations, lapse of time had rendered them useless. Now there was one question he would ask the hon. and learned Gentleman: how could the main design of a founder, who existed 200 or 300 years ago, be ascertained? If expressed, it was either in accordance with the general objects of education or not. If the design was not in accordance with those objects, it ought not to be maintained; and where the design was not expressed it must be assumed to be for the promotion of education. The main design, as expressed, of the founder of Queen's College, was, that his soul and the soul of his Queen should be prayed for; and this showed the impropriety and absurdity of making it imperative to regard the designs of the founders. Was it not a monstrous case of abuse that King's College, with a magnificent income of £26,000 a year, should only turn out at the rate of three Bachelors of Arts per annum? The fellows and scholars there were obliged to swear that they would do their best to oppose the spread of the errors of John Wickliffe, and Reginald Peacock, Bishop of Chichester in the time of Henry VI.; but those errors

as they were called, were now held by members of the Church of England. Therefore, one of the main designs of the founder was to oppose those very opinions which it was the present object of the University and Colleges to promote. That was the case with respect to those two Colleges, and also with respect to many others, and it was too late at the present day to insist on the observance of the main designs of the founders. It must happen that in the course of time the objects of the founders became useless or even mischievous, and therefore the funds ought to be devoted to other purposes. Consequently, the Committee in dealing with those trusts, must be influenced by no other motive but a desire for the public advantage and utility, and unless they were dealt with on that ground they had better not be dealt with at all. The practical result of the Amendment would be to restrict the freedom of the Colleges, as, at present, in many instances, the original designs of the founders were disregarded.

MR. WALPOLE said, that the right hon. Gentleman (Mr. Bouverie) appeared to think that the insertion of the words proposed by his (Mr. Walpole's) hon. and learned Friend (Mr. Wigram) would do away with the whole effect of the Bill. Now he thought that the experience of the Oxford University Act had entirely removed all ground for any such apprehension. The endowments of colleges were as much property as any which could be held by any Member of that House, and the rights of that description of property had always been held as sacred as those connected with the property of individuals, and to trench upon those rights would be to trench upon the rights of property itself. The right hon. Gentleman said that, if it were found that any of those donations were at present applied in a manner either useless or mischievous, it would be to the public advantage to take them away or alter them so as to make them useful. Now, who was to do that? Were the Colleges or the Commissioners to do it? He could conceive that the Colleges might be allowed, with the sanction of their visitors, and subject to such rules as Parliament might lay down, to alter the character of their own property; but he could not understand that the Commissioners should have such a power conferred upon them. Why, it would be a greater power than had ever been bestowed on any body before. The right hon. Gentleman had

referred to donations for praying for the souls of the founders; but that was the exception, and not the rule; and, because alterations might be necessary in one or two cases, that was no reason for conferring such arbitrary powers on the Commissioners, powers which would enable them to alter the character of the trust upon which the property was originally given. If such a principle were recognised, the result would be to deter persons from dispensing their bounty as they did at present upon many most charitable and beneficial objects. It was said that there was no power of finding out the designs of the founders; but actual experience proved that the Court of Chancery was every day administering trusts according to the designs of the founders of them, and the effect of the introduction of the proposed words into the present clause would not be to prevent any absurd or useless provisions from being done away with, but it would show, to the Colleges first, and afterwards to the Commissioners, that they did not possess an absolute power of dealing with this property without any regard to the original trust. He, therefore, trusted that the right hon. Gentleman would not object to the Amendment, and he entreated the Committee to have a proper respect for the trusts, in which in fact they had an equal and an individual interest.

MR. HEYWOOD said, he objected strongly to the introduction of the words. With regard to the fear that had been expressed by hon. Gentlemen, that persons would be deterred from making any donation for benevolent purposes, he could only say that the Legislature would be well employed in discouraging persons from making foolish gifts, nominally for benevolent purposes, but in reality that they might see their names written in letters of gold, to the detriment of their families and friends. To take an example of the absurdity of the old institutions, Mr. Macaulay, before being admitted to a fellowship, had sworn to devote himself to the study of theology, or else after a certain period to relinquish his fellowship; but could any one believe that that distinguished man intended to devote himself to that study? The character of the property of the Universities had been frequently changed, and there was no reason why it should not be changed now if such a change would tend to the public advantage.

MR. WHITESIDE said, that the scope of the hon. Gentleman's argument was this—that the study of theology, which had regard to our highest interests, was foolish, and ought to be discouraged. He considered those observations as more worthy of the worst days of the National Assembly of France than of the English House of Commons. He presumed that the study of "geology" was that study which the hon. Gentleman would wish to substitute. The drift of the hon. Gentleman's argument was evidently to discourage the study of theology among the youth of this empire. If a founder left a sum of money to a college for the teaching of the Christian religion that was a lawful purpose, and was one with which Parliament ought not to interfere. Those foundations had already produced the greatest lights of the Church, and it would be absurd to contrast any men of the present day with the distinguished divines of former days. He denied that endowments for the promotion of various branches of education were an encouragement to superstition; and he put it to the Committee to say whether, if a man were to endow a foundation for the study of the works of Roger Bacon, it could be viewed in that light? He would support any Amendment which had for its object the preservation of those time-honoured and valuable institutions. The worst argument he had ever heard against the words proposed was the argument of the hon. Member opposite (Mr. Heywood); and if he had had any doubt as to the necessity for the insertion of those words that doubt would have been removed by the argument of the hon. Member. Cambridge University possessed many valuable and useful endowments, and though the hon. Member had asserted that these were the fruits of the vanity of the founders, it ought to be kept in view that but for such persons this country would not have possessed the noble charities for which it was remarkable.

MR. BOUVERIE said, he would point out that, of the 700 or 800 scholarships belonging to the University, 400 were restricted. Although those restrictions might be wise and salutary when they were first founded, they had become useless and prejudicial by the lapse of time, and Parliament, he considered, had now a perfect right to deal with them in the manner which it thought most likely to be beneficial to the promotion of education. As a test of the comparative value of open and restricted scholarships, he might men-

tion that of holders of the open scholarships at Trinity one in every four got a fellowship, while, of the Westminster scholars at that college, only one in twenty-two got a fellowship. The Amendment of the hon. and learned Member had a much wider operation than the words in the Oxford University Act to which he had referred, for while those stated that the observance of the wishes of the founders should be one of the objects of the statute, those words would override the statute altogether.

MR. J. G. PHILLIMORE said, he had listened with great pain to the speech of the right hon. Gentleman, a speech which would have been a great deal more in place on the other side of the Atlantic than in the English House of Commons. He had not, however, been in the least surprised at the observations of the hon. Member for North Lancashire (Mr. Heywood). That hon. Gentleman avowed that he wished to discourage charitable bequests, and he had certainly taken the surest mode of doing so. The hon. Gentleman reminded him of a saying of Montesquieu, who observed that a certain tribe of savages, when they wanted to gather fruit, cut down the tree. The right hon. Gentleman (Mr. Bouverie's) remarks with respect to the Westminster scholars was exceedingly unfair; because, as he had himself admitted, a great number of the Westminster boys went to Christchurch. Besides, he denied that the obtaining of fellowships was necessarily a test of eminence. Amongst the Westminster boys who did not become fellows was no less a man than John Dryden. He would remind the right hon. Gentleman, also, of the dictum of a great American jurist, and one who had certainly no superstitious fondness for English institutions—he meant Chancellor Kent. That great Judge said that these very collegiate institutions were "amongst the most interesting and meritorious trusts which could possibly be created and confided to men." When he (Mr. Phillimore) was taunted with the great commentators whom the German Universities had produced, he would point in reply to the debates in that House, to the great men who had adorned it, to the useful laws they had passed, and to the great constitutional principles they had established. It was in the Colleges of England that the minds of our statesmen were trained; and he believed that just as in the middle ages those institutions were the means by which alone persons of humble origin might raise themselves, and earn

a great name for themselves and their country, so in those times they were still the great means by which those who were not born of opulent and splendid families, might qualify themselves for the service of their country, and win for themselves such distinctions as society could bestow.

MR. T. CHAMBERS said, that for the last reason alleged by the hon. and learned Gentleman, he should oppose the Amendment. Besides, the words sought to be introduced were completely contradictory to the rest of the clause.

VISCOUNT PALMERSTON said, that to judge from the arguments of hon. Gentlemen opposite who supported the proposal one would imagine that the Bill had for its object to suppress all these collegiate establishments—to apply their property to purposes altogether different from those to which it was now applied—and, in short, to deal with the University of Cambridge much in the same way that Henry VIII. dealt with religious houses. Now, certainly, nothing was further from the intention and object of the Bill than any such purpose. The Amendment of the hon. and learned Gentleman (Mr. Wigram) in his opinion, would really go to defeat the real purposes of the founders. The University of Cambridge had described itself as an institution for the promotion “of sound learning and religious education.” Those were the objects for which those estates had been left, but they had been left at a time when peculiar notions existed as to the best mode of accomplishing those objects. Some of the founders thought that the best method was to insist that no person should be a fellow unless he belonged to a particular county. Other restrictions of various kinds were imposed, tending to defeat the purposes of promoting sound learning and religious education, and to render the college less available for the purpose for which it was endowed. Every member of the University was aware of what had passed with regard to St. John’s College. Originally its fellowships were what were called close—that was, none but Lancashire, Cumberland, or Westmoreland men could obtain a fellowship. He recollected the time when that was changed. It appeared that there was a power in the visitor to alter the statute, which was defeating the main object of the founder. [“No, no!”] Well, it must be so construed according to the arguments they had just heard—namely, that however obsolete or absurd the conditions were which the

founder attached to the grant they must for ever be observed. The spirit of the words proposed would go to rescind the opening of the fellowships of St. John’s, and would re-establish the system which the college itself had held to be prejudicial to education. If they wished the University of Cambridge to be as useful as possible in the diffusion of sound learning, they ought to leave the colleges at liberty to sweep away all those small, ridiculous, obsolete restrictions which tended to defeat what they were bound to consider were the main objects of the founders, and which prevented the University being so useful as it might be in promoting sound learning and religious education.

MR. WALPOLE said, that it was a little remarkable that, although the noble Lord (Lord Palmerston) advocated the omission of the words proposed, on the ground that the main object of the University was the promotion “of sound learning and religious education,” the clause, as it stood, would delegate, first to the Colleges and then to the Commissioners, a power to act in entire disregard to that object. There were no words requiring the Commissioners to make alterations only so as to promote “sound learning and religious education.” They might, if they pleased, direct the exercise of their power in a direction completely the reverse. With reference to what had fallen from the hon. and learned Member for Hertford (Mr. T. Chambers), he observed that the enacting part of the clause gave to the Colleges and Commissioners the power of making a great many alterations. The supporters of the Amendment did not wish to cripple that power in any way, but they wished to direct it, and the only mode by which they could direct it was to insert in the clause words indicating the direction which it ought to take.

MR. ROBERT PHILLIMORE said, that the test applied by the right hon. Gentleman (Mr. Bouverie), of the small number of scholars from Westminster who obtained fellowships at Trinity, had no application to the present case. Lord Chief Justice Jervis and Mr. Justice Williams had been scholars at Westminster, but they had not obtained fellowships at Trinity. All that the words proposed to be inserted would do, would be merely to require that attention should be paid to the main objects of the founders. He should therefore vote against the clause.

MR. HENLEY said, that the noble

Lord at the head of the Government had described the object of the University as being the promotion "of sound learning and religious education," and he (Mr. Henley) supported the insertion of the words proposed because they appeared to him to secure the main object. It was clear that those who were sitting behind the noble Lord wished to get rid of the object which the noble Lord wished to secure. There was nothing in the Bill as it stood which would prevent the Colleges or Commissioners appropriating the college funds, not for the promotion "of sound learning and religious education," but for any purpose that might be uppermost in their minds. He could not understand why the insertion of the words proposed should be objected to.

MR. FORTESCUE said, he entertained an objection to the insertion of the words, on the ground that different meanings might be attached to them, according to the opinions or feelings of the persons who might have to carry out the provisions of the Bill, and would in all probability seriously affect the working of the measure.

MR. WIGRAM said, that his sole object in moving the Amendment was, that Parliament should not in appearance do anything to subvert what was the main intention of the founders. Unless some such safeguard were provided, he was convinced that many charities founded solely for the poor would pass into the pockets of the rich. The chance of a poor man getting his son into the University depended almost wholly on those local privileges. He would propose to vary his Amendment as follows:—

"Due regard being always had to the main designs of the founder or donor, so far as consistent with sound religion and learning."

MR. BOUVERIE: That makes it still stronger.

MR. WIGRAM said, his object was to ascertain whether the right hon. Gentleman had any words of his own to propose. If not, he should adhere to his Amendment as originally proposed.

Question put, "That those words be there inserted."

The Committee divided:—Ayes 78; Noes 97: Majority 19.

MR. HEYWOOD said, he would now move to insert, in line 32 of the same clause, after the word "such," the word "headships." The object was to enable the Commissioners to make alterations

Mr. Henley

with regard to the headships, as well as the fellowships and other emoluments.

MR. BOUVERIE said, he objected to the proposal. He thought that when a man got to the head he ought to remain there.

MR. HEYWOOD said, that his proposal would only affect future heads of colleges. He had corresponded with several masters of arts who were favourable to the alteration.

Question put, "That the word "headships" be there inserted."

The Committee divided:—Ayes 41; Noes 145: Majority 104.

MR. HEYWOOD said, he wished to propose the insertion in line 43 of the same clause, after the words "for the" the words "encouragement of studies in modern history, practical science, and modern languages, and for the". His object was to introduce modern studies into the University of Cambridge. When he was there he wished to attend the lectures on modern history, but was told by his tutor that it would do him no good in the examinations. He understood that the Oxford Commissioners had proposed that in one of the colleges there a fifth part of the fellowships should be set apart for physical science. He therefore hoped the same thing would be done at Cambridge. His Amendment he considered was of importance with regard to Parliament itself, for he did not think that senators were well educated unless they were acquainted with modern history, practical science, and modern languages.

MR. BOUVERIE said, he fully admitted that it was very desirable that modern studies should be pursued at Cambridge, but the question was, how it could best be done. The Bill contained a general provision that colleges should have the power to introduce such studies as part of their course, and he thought that the object in view would be more effectually secured by a comprehensive provision of that kind than by the words proposed to be added to the clause by the hon. Gentleman.

Question put, "That those words be there inserted."

The Committee divided:—Ayes 55; Noes 136: Majority 81.

MR. HEYWOOD said, he would now beg to propose, as an Amendment, that the following words should be inserted in the clause after the word "fellows," as one of the objects for which Statutes should be made—namely, "for exempting students who may conscientiously object to attend the existing Liturgical Services

in the College Chapel from compulsory attendance. His desire was, that those who did not belong to the Church of England should not be compelled to attend its services. That rule was followed in Trinity College, Dublin.

MR. BOUVERIE said, he objected to the introduction of the words, because the general clause empowering the governing body to form Statutes would enable them to make such an arrangement as the hon. Gentleman proposed if they chose to do so; and he believed that in some of the colleges there would be no indisposition to take that course.

MR. HEYWOOD said, he did not believe the authorities of the colleges, though they possessed the power, would make such a Statute as he proposed.

Question put, that those words be there inserted.

The Committee *divided*; when there were, Ayes 90; Noes 128: Majority 38.

Clause, as amended, *agreed to*, as was also Clause 28.

Clause 29 (When Colleges omit to make Statutes, Commissioners may frame them.)

MR. WIGRAM said, he wished to move an Amendment, putting the election to the mastership of Jesus College on the same footing as that of Magdalen, and that the interest of the Bishop of Ely in such election should cease.

MR. BOUVERIE said, he must explain that the interest of the Bishop of Ely in Jesus College was to cease after the death of the present Bishop.

MR. HENLEY said, he could not see how they were to separate the nomination of the living which was attached to Jesus College from that of the mastership.

MR. FORTESCUE said, he would now beg to move an Amendment taking away the power, now given to two-thirds of the governing body of any college, to negative the recommendation of the Commissioners. No body about to be reformed by the provisions of such a Bill as the present, was likely to carry the reform out with such a power of a veto given to them. It was holding out a temptation to the Colleges at Cambridge to thwart the objects of the Bill. When a similar clause was introduced into the Oxford University Bill it was not part of the original Bill, but adopted by the Government when they found that they could not help it—when they had great difficulties in carrying the measure, and were obliged to conciliate on all sides. It was a mere concession to the

opposition, and assuredly no part of the views of the promoters of the Bill. The noble Lord even said that the proviso would impair the objects of the Bill, and oblige them to come in two or three years to that House for an amended Bill. It was well known in Oxford that the proviso had been a serious hindrance to the operation of the Bill. The governing body of new College had exercised their veto against a scheme of the Commissioners for throwing open the scholarship of the College, now confined to students from Winchester. St. John's College would most likely follow the example, in vetoing the scheme for throwing open the scholarships now almost entirely given to Merchant Tailors' School. Jesus College would most probably do the same thing. He therefore appealed to the Committee to remove so serious an embarrassment to the working of the Bill.

Amendment proposed in page 9, line 16, to leave out from the word "thereof" to the end of the clause.

MR. BOUVERIE said, he would admit that if he had framed the Bill without the precedent of the Oxford Act, he would hardly have introduced the proviso; but it must be remembered that the subject had been fully discussed during the progress of the Oxford University Bill and a very strong feeling existed in favour of the introduction of a proviso of this nature.

SIR WILLIAM HEATHCOTE said, it was true that in the case of the Oxford Act the Government endeavoured to conciliate the Opposition by abandoning minute legislation, but he was not aware that they ever disputed the necessity of affording some protection to the colleges against the otherwise irresponsible power of the Commissioners. With respect to the refusal, or rather intimation of dissent, from New College relative to Winchester School to the scheme of the Commissioners to deal with those institutions together, he was prepared to assert that such refusal or dissent was justified upon the ground of the scheme being injurious to a place of learning and education.

MR. GORDON said, that the Amendment, if carried, would not only deprive the colleges of all opportunity of objection, but would absolutely leave them in ignorance of the Statutes by which they were to be governed.

Question put—"That the words 'Provided always, That all such Statutes' stand part of the clause."

The Committee divided:—Ayes 165; Noes 93: Majority 72.

Clause agreed to.

Clause 30.

MR. WALPOLE said, he wished to move the insertion of the words "sound learning and religious education."

MR. HEYWOOD said, he should oppose the Amendment. He believed that, according to the interpretation of the University authorities, "sound learning" would be found to mean a Greek and Latin education; and a "religious education," the religious teaching of the Church of England. Now, he was in favour of modern studies being introduced into the University, and he was still more decidedly in favour of Dissenters being admitted to all its honours. He certainly, therefore, could not approve of the Amendment.

MR. BOUVERIE said, it was his opinion that "sound learning" did not mean Latin and Greek exclusively, though he believed religious teaching would mean that of the Church of England.

MR. T. CHAMBERS said, he would suggest that, for consistency's sake, "religious education" should be introduced into Clause 28.

MR. J. G. PHILLIMORE said, he did not see why the words "sound learning" and "religious education" should be objected to.

MR. BOUVERIE said, he would look at the clause, and also at the words proposed to be inserted in the 28th clause, and state what he thought should be done.

Clause agreed to.

Clause 31.

MR. WALPOLE said, the clause, as drawn, would operate thus:—The University would have the power of making Statutes within two years, and if they did not do so the Commissioners would have power to make Statutes until 1860; after which the University would again have the power of making Statutes, and, consequently, might undo all that the Commissioners had done. Now that, he maintained, was not a very satisfactory state in which to leave the University with respect to the Commission. What he desired to propose was, that they should do one of two things,—either omit the clause altogether, or leave the Commissioners power to make alterations, if the University failed, provided two-thirds of the governing body of the University agreed to such alterations.

MR. BOUVERIE said, he objected to omit the clause altogether. It was proposed to give the Commissioners power to deal with the Statutes—first with the Royal Statutes, and next with the Statutes connected with the endowments. He was ready to concede a power to the colleges to dissent from any Statutes proposed by the Commissioners with respect to endowments, but not with regard to the Royal Statutes.

MR. WIGRAM said, he could not conceive how the proviso, giving the University power to object to the alteration of all Statutes, was open to objection. If ever there were a body which deserved confidence it was the University of Cambridge. There never had been a corporation which had shown more alacrity to adopt improvements.

MR. HEYWOOD said, he would remind the Committee that the University of Oxford had recently determined that the Professor of Anatomy should sign the Thirty-nine Articles. He believed the Professor of Anatomy was about the last person to believe the Thirty-nine Articles; and that if we took the medical profession throughout the country, ninety-nine out of a hundred did not believe in those Articles. The Commissioners objected to the test of the Thirty-nine Articles; but if the Committee allowed two-thirds of the Council to object, they might have a similar case occurring at Cambridge. At present Dissenters were admitted there even without a revision of the Statutes.

Clause agreed to.

Clause 32, Right of preference belonging to schools not to be abolished in certain cases if two-thirds of the governing body of the schools dissent therefrom.

MR. FORTESCUE said, he should move the omission of the clause. The clause gave power to schools as well as colleges to defeat the whole object of the Bill, by enabling two-thirds of the schools to put a veto on any clauses for reform proposed by the Commissioners. It did not follow logically that because the Committee had rejected his Amendment on the former clause they should object to his Motion now, to omit the clause from the Bill.

MR. ROUNDELL PALMER said, that having proposed and carried a similar clause in the Oxford Bill to that which the hon. Gentleman now proposed to omit, he hoped the Committee would not take a course so grossly inconsistent as to refuse

to the schools connected with Cambridge the same privilege which they had given to the schools and colleges connected with the sister University. It appeared to be a gross oversight to forget the interests of the schools and minor places of education dispersed over the kingdom, and to fix attention exclusively on the Universities. Education was of general interest, promoted as much by schools as by Universities; and it appeared to him to be a short-sighted jealousy which would lead to the sacrifice of schools, even to promote some degree of advantage to the University. But the schools would certainly be sacrificed if they took away all the exhibitions and scholarships which had been established by the founders or masters of the schools or endowments, for the purpose of facilitating the passage into the Universities of youths educated in the schools. It would, in fact, amount to confiscation. The adoption of a clause of this kind in the Oxford Act had not resulted in any mischievous consequences, and he trusted the Committee would not stultify itself by agreeing to the Amendment.

MR. FORTESCUE said, that, as the Bill was at present framed, if the scheme proposed by the Commissioners was rejected, they had no other resource than to report the fact to the Secretary of State. He would therefore submit that a power of appeal should be given to them.

MR. WALPOLE said, he wished to know upon what ground should a right of appeal be given to the Commissioners? A power of appeal was only given to persons interested and affected by the matter in question; but the Commissioners were simply delegated to see that the powers of the University were properly put in motion.

MR. FORTESCUE said, he regarded the Commissioners as the representatives of the House of Commons, and that they had therefore quite as good a right to be heard before the Privy Council as any other party.

Clause agreed to; as were also Clauses 33 to 37, both inclusive.

Clause 38.

MR. ROBERT PHILLIMORE said, he wished to move the omission of certain words for the purpose of giving an appeal against any new Statutes to the Judicial Committee of the Privy Council, instead of five Members of the Privy Council, including two members of the Judicial Committee, a provision which had, he said,

given rise to great difficulty in the case of the Oxford University.

SIR GEORGE GREY said, he was not aware that any inconvenience had resulted from the provision in the Oxford Act. One petition only had been presented, which had been referred to five Members of the Privy Council, including two Members of the Judicial Committee, and by them disposed of satisfactorily.

Amendment negatived.

Clause agreed to.

Clause 39. (The Statutes to be laid before Parliament, and unless an Address is within forty days presented by one or other House praying Her Majesty to withhold Her consent, it shall be lawful for Her Majesty, by Order in Council, to declare Her approbation of such Statutes.)

MR. HEYWOOD said, he wished to extend the time from forty days to four months, which would allow of a longer period for the consideration of the Statutes in Parliament, and would give to independent Members a better chance of obtaining a day on which to move an Address.

MR. BOUVERIE said, he would not object to sixty days being substituted for forty.

MR. GLADSTONE said, he hoped the right hon. Gentleman would reconsider the point. By this provision in the Bill it was not intended to reserve to Parliament the principal function of considering the Statutes in their particulars. The House of Commons was not at all fit for such an office; they provided a Commission to review the operations of the colleges in the way of legislation, or, if necessary, to assume to themselves the power of legislation; and the appeal to that House was only provided in the improbable case of some gross violation of the trust confided to them on the part of both the Commissioners or the University. He looked upon the period of forty days as ample for the object in view; a longer term would be very inconvenient to the colleges, as well as wholly unnecessary.

MR. COLLIER said, he should support the Amendment, which would afford a reasonable time to independent Members to move an Address, instead of leaving them at the mercy of the Government.

SIR GEORGE GREY said, he thought it advisable that the practice should be the same both with regard to the Oxford and the Cambridge Statutes. There would always be ample opportunities during the period mentioned in the clause for inde-

pendent Members to bring forward any Motion they might wish to submit to the House.

MR. WALPOLE said, that the object of making the House of Commons a Court of Appeal was to provide against the contingency of the Commissioners flying in the face of the Act. It was not intended as a general rule that the House of Commons should review the acts of the Commissioners.

Clause agreed to.

Clause 40.

MR. WIGRAM said, he objected to the power given to the Commissioners of sweeping away all the Statutes. There were many portions of the Elizabethan Statutes which he thought it might be desirable to retain. For instance, it was provided that no undergraduate should be expelled without the approbation of the majority of the heads of colleges. It was also provided that there should be a uniform system with regard to the taking of degrees. He could not see the necessity of arming the Commissioners with such a power in express terms.

MR. BOUVERIE said, he thought it better that the Commissioners should be enabled to deal with the code in a comprehensive manner.

MR. WALPOLE said, the clause was merely an intimation as to the nature of the Commissioners' functions.

Clause agreed to.

Remaining Clauses agreed to.

House resumed.

Bill reported.

DUBLIN METROPOLITAN POLICE BILL.

Order for Second Reading read.

Motion made, and Question proposed, "That the Bill be now read a second time."

MR. VANCE said, he objected to the Bill on a point of form, as it proposed to give certain compensation charged on the Consolidated Fund, and therefore should have been introduced in a Committee of the whole House.

MR. SPEAKER said, that the hon. Member had raised the same objection a few nights before. He had examined the question, and found that the 17 & 18 Vict. c. 94, had removed those charges from the Consolidated Fund to the annual Estimates; and the Bill was therefore correct in point of form.

MR. SERJEANT O'BRIEN said, he would ask the Government whether, at that hour

Sir George Grey

—just one o'clock—it was decent to take a Bill with 185 clauses, objected to as it was by all parties in Dublin?

MR. HORSMAN said, he hoped the Bill would be allowed to pass a second reading. He believed it was not objected to on principle. It was only a consolidation Bill.

MR. GROGAN said, that he was surprised to hear such a statement. The Bill was vehemently objected to by the people of Dublin, and it was very different from a consolidation Bill. It extended the provisions of the Act it professed to consolidate; for example, as to enabling the Lord Lieutenant to include parishes in the police districts of the city within ten miles round it. The whole county might as well at once be included. Then, again, there was an extraordinary provision as to the police magistrates and police "Commissioners," as they were called in this Bill. To all intents the magistrates had hitherto been deemed as superior authorities; but this clause made them subordinate. It was so important, however, that a consolidation Bill, or some good Bill for the regulation of the police in Dublin should be adopted, that he was quite ready to make a compromise with the right hon. Gentleman the Secretary for Ireland, which was this—that the Bill should be read a second time now and referred to a Select Committee, with power to examine witnesses, and decide on the course to be afterwards pursued. Let the right hon. Gentleman adopt that course, and he (Mr. Grogan) would agree to the second reading now. If not, he should feel it to be his duty to move, as an Amendment, that the Bill be read a second time that day six months. By taking that course he believed no injury would accrue either to the city of Dublin, or to the parties whom it was proposed to benefit by the Bill; whilst an opportunity would be given for making the measure satisfactory to all classes concerned. On the other hand, if the right hon. Gentleman proceeded with the Bill he was afraid that, in accordance with the wishes of the corporation and inhabitants of Dublin, he should have to give it all the opposition in his power. He begged to move, therefore, that the Bill be read a second time that day six months.

Amendment proposed, to leave out the word "now," and at the end of the Question to add the words "upon this day six months."

Question proposed, "That the word 'now' stand part of the Question."

MR. HORSMAN said, if he were to accede to the proposal of the hon. Member for Dublin they would be unable to pass the Bill during the present Session. The objections that the hon. Gentleman made were rather objections of detail, which could be more properly discussed in Committee. It was, he maintained, only a consolidation Bill which had been drawn without any intention to alter the existing law, and if any alteration had been made, he was ready to remedy that in Committee.

MR. P. O'BRIEN said, that the citizens of Dublin entertained a general objection to the whole system of the police of that city, which they were anxious should not be sanctioned by the passing of any such Bill as that before the House. He particularly objected to the 149th clause, by which a constable was empowered to arrest a person without a warrant for, among other things, the use of obscene language. The other day, a number of persons were taken before the magistrates, of course by the direction of the Police Commissioners, charged with using such language, and, when questioned as to what that language was, a policeman replied that they had said, "Damn the police!"

MR. VANCE said, he thought there was a strong *prima facie* case against the Bill, inasmuch as it went directly in the face of the constituted authorities of Dublin.

MR. J. D. FITZGERALD said, that the objections to details which had been urged were the best reasons for going on with the Bill. They were all objections to the existing law, which if the Bill were not proceeded with, must remain unaltered; but which might, if they went into Committee, be amended. The Bill was substantially a consolidation Bill, reducing into one that which was now scattered over thirteen confused Acts of Parliament. At the same time it reduced the number of magistrates from nine to five, and thus tended to lessen the public burdens.

MR. WHITESIDE said, he was of opinion that the Bill should be referred to a Select Committee. He knew nothing more unmerciful, on the part of the Attorney General for Ireland, than to inflict this Bill, containing 185 clauses, on a Committee of the House. No doubt it would be a rich intellectual treat; but he thought, with so many details, the

matter should be referred to a Select Committee.

COLONEL TAYLOR moved the adjournment of the debate.

VISCOUNT PALMERSTON said, he hoped the House would read the Bill a second time now, and leave the question of referring it to a Select Committee for future consideration. Of course the Government were open to receive, and ready to entertain, suggestions on the subject of the proposed change in the law.

MR. GROGAN said, he must complain that neither the corporation nor the magistracy of Dublin had yet had an opportunity of considering the Bill.

MR. P. O'BRIEN said, that the Bill was conceived in the same spirit as the Counties and Boroughs Police Bill, which English Members had so much opposed. For the sake, then, of consistency, he had a right to call upon English Members to oppose the precipitate second reading of the measure, which was just as much a blow against the principle of local self-government as the objectionable English Bill.

SIR GEORGE GREY said, it was of importance that the Bill should be got through in the course of the present Session; but that certainly could not be done if it were referred to a Select Committee, except under the assistance and forbearance of the House. No doubt the best tribunal for discussing the details of the Bill would be a Select Committee; but then, if that course were adopted, it must be understood that the House would accept the Bill as it came down from the Committee. However, the Government would rather that the Bill should be read a second time at once, and the question of referring it to a Select Committee reserved for future consideration.

Motion made, and Question put, "That the Debate be now adjourned."

The House divided:—Ayes 52; Noes 65; Majority 13.

Question again proposed, "That the word 'now' stand part of the Question."

Whereupon Motion made, and Question put, "That this House do now adjourn."

The House divided:—Ayes 46; Noes 69; Majority 23.

Question again proposed, "That the word 'now' stand part of the Question."

Debate arising; Debate adjourned till Thursday.

The House adjourned at a quarter after Two o'clock.

HOUSE OF LORDS,

Tuesday, June 10, 1856.

MINUTES.] PUBLIC BILLS.—1st Oath of Abjuration; Small Debts Imprisonment Act Amendment (Scotland); Excise.

8th Juvenile Convict Prison (Ireland); Public Health Supplemental; Hay and Straw Trade.

NON-CONSECRATION OF BLANDFORD
BURIAL GROUND—EXPLANATION.

LORD PORTMAN begged permission to claim their Lordships' attention for a few minutes, on personal grounds, while he referred to a subject of which he had given the right rev. Prelate (the Bishop of Oxford) notice, and which related to certain statements made by himself and by the right rev. Prelate in the discussion which had arisen on Thursday last, on the refusal of another right rev. Prelate (the Bishop of Salisbury) to consecrate the Blandford burial-ground. He felt confident that the right rev. Prelate would be obliged to him for affording him the opportunity of correcting anything that might have fallen from him in the heat of debate, or owing to inaccuracy of memory. The right rev. Prelate, on the occasion alluded to, said he would put no confidence in certain "hear-say" statements which he (Lord Portman) had made. He (Lord Portman) now begged to state that the "hear-say" statements made by him on Thursday last had since been fully confirmed. He had made no pretence to making a statement to their Lordships, beyond that he himself believed it to be true; and he believed it on the character of the party who gave him the information. He (Lord Portman) stated that there was no communion table in the chapel of the cemetery at Woolwich, on the occasion when the right rev. Prelate opposite consecrated that ground. The right rev. Prelate, however, stated as an eye-witness that there was a communion table.—[The Bishop of OXFORD intimated dissent.]—The right rev. Prelate had certainly been very cautious in the way in which he alluded to the chapel at Woolwich,—at all events, he said there was "a table;" and as their Lordships were talking about communion tables, it might well be presumed that the right rev. Prelate meant that there was a "communion table." The right rev. Prelate, however, said that he did not precisely recollect whether there was a communion table or not in the chapel at Woolwich, since,

whether the ceremony of consecration was according to his views or not, taking place as it did in the diocese of another Prelate—London,—he should not have thought it a point of conscience. Now, he (Lord Portman) submitted that the right rev. Prelate ought not to have proceeded in a ceremony not according to his own views, if he deemed his views to be essential and matter of necessity. He might quote great writers upon such a point, if he thought necessary, but he would not trouble their Lordships: he would only say that in his own opinion no man was warranted in doing what he thought to be wrong merely because he was acting as the deputy of another. In matters of total indifference—matters signifying nothing one way or the other—a man was at liberty to act as he pleased; but in matters of conscience and essence, the case was far otherwise. If, then, the right rev. Prelate thought that a communion table—and the celebration of the holy communion were essential to the consecration of the chapel and burial-ground at Woolwich—he could not understand how the right rev. Prelate could waive his own opinion in deference to that of the Bishop of London. The gentleman on whose authority he (Lord Portman) had made the statement had informed him that there was no communion service and no communion table on the occasion of the consecration of Woolwich burial-ground. But with the view of being perfectly accurate, he (Lord Portman) had written to the Clerk of the Burial-board, at Woolwich, requesting information as to the real state of the facts, and from the reply of that person he was sure the right rev. Prelate would admit that he had been mistaken. The reply of the Clerk of the Burial-board was in these words:—

"In reply to your note of the 7th, I beg to inform you that there is not a communion table in the chapel of the cemetery at Woolwich, and that the Holy Communion was not celebrated at the consecration of the burial-ground."

He (Lord Portman) found in a paper delivered this day, that the Chancellor of the Bishop of London receives a fee of five guineas for advising the Bishop whether the proceedings of every consecration were strictly legal, so that it was clear the Bishop of London was advised carefully that all is legally done, and he (Lord Portman) preferred to trust such advice rather than the caprice of the Bishop of Oxford. He

wished to mention, also, that he had received a letter from a gentleman named Gray of Newbury, who was unknown to him, though he believed he was known to some of their Lordships, stating that he had paid much attention to the debate on Thursday last, and that he had been much struck by the remark of the Bishop of Oxford, in reference to what he had done at Woolwich as the deputy of the Bishop of London. Mr. Gray stated that some years ago the Bishop of Oxford had himself, in his own diocese—at Newbury—consecrated a burial-ground, in which not only was there no communion table, but not even a chapel. After hearing this he was sure the right rev. Prelate would be glad of the opportunity of putting himself right with their Lordships, especially as he had attributed to him a further inaccuracy in alleging that there was a difference of practice between the right rev. Prelate and the Bishop of Salisbury; with regard to whom he might be allowed to say, in passing, that he disclaimed every degree of ill-feeling, and the differences in whose diocese, arising out of the matter referred to on Thursday evening, were not unlikely to be adjusted by the kindly intervention of the Bishop of St. Asaph. Whatever rules the right rev. Prelate might say he made, no one could fail to observe that his practice was not uniform; those who watched him, and saw that he did not adhere to any rule, had a right to say that he did not insist on a communion table in a cemetery chapel, and had a right to believe that it was quite a matter of indifference, as no one would wish to attribute to him that he would yield to any temporary purpose what was really essential. He (Lord Portman) would now appeal to their Lordships whether he had been wrong in relying upon hear-say evidence in these matters, and whether his statements had not been confirmed by the testimony of others? He felt exceedingly sorry that he should have been held up to their Lordships as having furnished them with erroneous information; and he trusted they would excuse him for having given the right rev. Prelate an opportunity of putting himself right with the House on these subjects.

THE BISHOP OF OXFORD said, the noble Lord charged him with two inaccuracies; first, with having stated that there was a communion table in the chapel at Woolwich, when there was none; and, secondly, with having told the House that the usage

in his diocese was the same as in Salisbury, when such was not the fact. Besides this, the noble Lord charged him with having violated his conscience (if his conscience were rightly informed) in adopting in the diocese of London the usage of that diocese when he was acting in behalf of the Bishop of London. As to the first of those charges, the facts were simply these:—When he went to the cemetery chapel at Woolwich, the form used in the diocese of London was put into his hand as the official document for his guidance. The rubric prefixed to that document provided that the Bishop, with his chaplain, should be received at the door of the church or chapel by the chancellor, registrar, minister, churchwarden, or others, and having proceeded in his robes to “the communion table,” the service of the day was then to be read by the officiating minister. Now, he had been duly received in the form here prescribed, had been conducted in his robes to a chair placed beside a table covered with a decent red cloth, and situated under the east window; his chaplain took his seat on the south side of the table; and the officiating minister then proceeded to read the service. He (the Bishop of Oxford) took it for granted that the table before his eyes was what the rubric called a communion table, and he appealed to their Lordships whether this was not a natural supposition, and whether it could be described by any other name? By to-day’s post, however, he had received from the rector of Woolwich a letter, stating that the noble Lord had submitted to him a string of interrogatories as to whether the table in question was not a common dining table? whether it was not covered by a green baize cloth?—and the like; in answer to which their Lordships had heard that it was a decent table, covered with a red cloth, such as these tables were commonly covered with. It certainly appeared now that this table was not intended to be left there; and in the letter to which he had referred the rector of Woolwich said,

“I have evidently led you into a mistake by the arrangement I made. As it was necessary that a table should be placed somewhere for your convenience, and the place under the east window was the most appropriate position for it, that part of the chapel was selected for the purpose. It certainly had all the appearance of a communion table.”

As to the second alleged misrepresentation, he (the Bishop of Oxford) had said, that the rule adopted in the diocese of Salisbury with regard to these consecra-

tions was the same as that of his own diocese. This statement was strictly correct. It was true that many years ago, before he had considered the subject, he had consecrated the chapel at Newbury without a communion table. The service of his diocese had not been drawn up, and when speaking last Thursday, he certainly did not think it necessary to state that, when young in office and before he had considered the question, he had on one occasion not adhered to that rule. He did not think there was any material misrepresentation in this. As to the third charge, that he had violated his conscience, because in an essential matter a man had no right to do for another what he would not do for himself, this point all turned on the meaning of the word "essential." He held that by the canon law and by the law which the Church of England had established there was no complete consecration of a cemetery chapel or church without the celebration of the Holy Communion. The question was supposing the Bishop of London only consecrated the cemetery, and did not consecrate the cemetery chapel, was there any violation of principle in his saying that he would adopt the form used in the diocese of London, which left that chapel unconsecrated? In his own diocese he had consecrated cemeteries without any chapel in them, in cases where there was a difficulty on the part of the parishioners in building a chapel, and of course there was no Communion there. He certainly thought it a mistake that in any diocese a cemetery chapel should not be legally consecrated, so that it remained an unconsecrated building in a consecrated cemetery, but he thought he should be straining at a gnat if he refused his assistance to one of his right rev. brethren in performing a ceremony of this sort, because that right rev. Prelate thought proper to permit the existence of an unconsecrated chapel. The consecration service in the diocese of London did not set apart the cemetery chapel for the service of God; it simply dealt with the burial-ground about the chapel. He trusted that the noble Lord having stated that all his anger to his right rev. Friend had passed away, would, after the explanation which he had just offered, extend his amnesty to him. It was very painful to him to think that any noble Lord should entertain anything like a grudge towards him, and he could assure their Lordships that, although he had spoken strongly in defence of his right rev. Brethren, he had

The Bishop of Oxford

no intention of misrepresenting the noble Lord. For his own part, he felt strongly upon the subject. He had for ten years had the experience of the episcopal work in a large agricultural diocese, and he had found that the opening and consecration of churches and chapels was the only opportunity afforded to the Bishop to partake, in conjunction with his clergy and the leading members of the laity, of the holy sacrament. That practice had in his own diocese been attended with most beneficial results by giving rise to feelings of kindness, by removing fancied impressions of slights experienced, and by establishing a oneness in the Church of Christ, and he should therefore deeply regret anything which might tend to the discontinuance of the practice.

THE EARL OF MALMESBURY said, that although this was an irregular conversation, he believed their Lordships would consider it of importance. Without entering into the controversy which had occupied the attention of their Lordships, he was anxious to inform the right rev. bench of Bishops of certain circumstances which had come to his knowledge, and which had been the cause of great inconvenience and of some ill-feeling, which he should be sorry to see exaggerated or continued. He alluded to the great uncertainty which prevailed in the public mind as to what was the feeling and opinion of the bench of Bishops generally on the subject of consecration. There was evidently a great difference of opinion among them as to the ceremonies to be observed on consecration. He himself lived in a large parish in which the churchyard had been closed, and at present they were without any cemetery; for it was considered desirable to have three cemeteries instead of one: but then the Act of Parliament required that they should build six chapels, and that they could not afford. The Act of Parliament with regard to consecration was different as applied to the country and to London, the words being obligatory as regarded the country. He was able to give ground for the formation of a cemetery, but not to build a chapel. His diocesan, who was held in universal esteem, was informed of this offer, but he declined to consecrate, on the ground that there was no chapel. Unless he had misunderstood the right rev. Prelate (the Bishop of Oxford), he had stated that he had in his time consecrated without a chapel or church. [The Bishop

of OXFORD: Yes.] Then there appeared to be a difference between that right rev. Prelate and the Bishop of Winchester, although he did not pretend to decide who was right; but he thought that as every county in the kingdom was now occupying itself with the making of new cemeteries, this question of consecration ought to be set at rest. He, therefore, wished to ask the right rev. Prelate (the Bishop of Oxford) whether, as he had done so before, he would be prepared, under certain circumstances, to consecrate a cemetery in which there might not be a chapel? and also whether he would object to consecrate a private cemetery?

THE BISHOP OF OXFORD thought there was great inconvenience in being called upon to answer a question of that kind off-hand. In the single case in which he consecrated a cemetery without a chapel the circumstances were rather peculiar, because the ground was sufficiently near to the parish church to make it possible for parties to have that portion of the service which was usually read indoors performed there. It was at High Wycombe. The parishioners had recently built schools at a considerable expense; and then an order came from the Secretary of State for the formation of a cemetery; it was represented to him that the parishioners were hard pressed for money, and under these circumstances he consented to the use of the parish church, thinking it right, in the exercise of his discretion, to meet, as far as possible, the wishes of the ratepayers—taking from them a promise that they would erect a chapel in the cemetery at some future period. In the case of the Bishop of Winchester, to which the noble Earl had referred, the reason of the right rev. Prelate's refusal was, that the cemetery in question was situated at such a distance from the parish church as that it would be impossible for the poor, for whom it was principally intended, to have the burial service performed in the church. The noble Earl asked, would he consecrate a private cemetery? He could only say, it was a matter in which he would exercise his judgment, and his decision would depend entirely on the circumstances of the case. There might be cases in which he would think it advisable to exercise the discretion vested in him by law.

THE BISHOP OF CASHEL said, that the difference of opinion on this subject was even greater than had been stated.

If the right rev. Prelate was right in saying that the consecration of a church or chapel was ineffectual without the administration of the sacrament, he (the Bishop of Cashel) could only say that the greater number of chapels and churches which he had undertaken to consecrate were not consecrated, for he was never in the habit of administering the sacrament at the time of consecration, although he always gave directions that it should be celebrated the next Sunday. The Archbishop of the province in which his diocese was situated declared that a religious ceremony was not at all essential to consecration. The only real essential was the civil act by which the building was handed over for the purposes of divine service. He knew of cases in which the Archbishop of Dublin (who he might remind them was an Englishman, not a disorderly Irishman), the Prelate to whom he had referred, had walked into the church, signed the act of consecration, and then walked out again; and when asked why he had not read any prayers, replied, "Do you think that anything I could read would give to the building a holier character than it will derive from the fact of its being given up to the service of God?" He (the Bishop of Cashel) did not follow the example of the most rev. Prelate, but he must say there was no form of consecration in the Church service. Different prelates used different forms; he adopted that used in the diocese of London, but even it contained no command to administer the sacrament, and he believed the majority of the Prelates did not administer it at the time.

VISCOUNT DUNGANNON thought it was high time that some distinct understanding should be come to on this important matter. It was a very fearful and formidable thing to find this difference of opinion existing on one of the most solemn rites of the Church. He had heard with regret the observations which had fallen from the right rev. Prelate who had last spoken. That right rev. Prelate had alluded to a case of irregular and, he might even say, unhallowed consecration performed by the Archbishop of Dublin. Though he could not be insensible to the high attainments and the personal merits of that right rev. Prelate, still it must be admitted that there had existed, in his mind, strong peculiarities and opinions. When he filled a distinguished position in the University of Oxford these peculiarities manifested themselves, and he could

not, therefore, attach much faith to his views on this question. However, this was a matter calling for decision, since it must necessarily give rise to doubts and feelings anything but pleasing or satisfactory if it remained in its present state.

LORD CAMPBELL respectfully suggested that, as there was no likelihood of the present conversation tending to edification, it had better be dropped.

House adjourned to Thursday next.

HOUSE OF COMMONS,

Tuesday, June 10, 1856.

MINUTES.] NEW WRIT.—For Leicester Borough,
v. Richard Gardner, esq. deceased.
PUBLIC BILL.—1st Annuities Redemption.

CHELSEA BRIDGE.

SIR BENJAMIN HALL said, he had been asked a question on a former evening by the right hon. Member for Oxfordshire (Mr. Henley) respecting Chelsea bridge, and had promised to obtain further information. He found that a sum of £5,500 was advanced in 1853 towards the expenses of the bridge; and, on reference to an Act of Parliament passed in 1846, he further found the Treasury was authorised to advance £65,000, to be repaid from tolls to be levied upon the bridge. Therefore there would be tolls upon that bridge, and the proceeds, after repayment of the £65,000, would be devoted to the purposes of metropolitan improvements.

REFORM OF THE ECCLESIASTICAL COURTS—QUESTION.

MR. HADFIELD said, he would beg to ask the hon. and learned Gentleman the Solicitor General what course he intended to adopt respecting the Wills and Administrations Bills, when he intended to proceed with the same; and whether he considered that it would be prosecuted to an issue during the present Session?

THE SOLICITOR-GENERAL said, his noble friend at the head of the Government had promised him that Monday, the 23rd of that month, should be devoted to the second reading of the Ecclesiastical Courts Bill. It would be the first Order of the Day, and he hoped the second reading would then take place. He had agreed with the hon. and learned Member for East Suffolk (Sir F. Kelly) to

Viscount Dungannon

make some modifications in the Government Bill, particularly with reference to facilitating the proof of wills by persons dying in the country, which he thought would render the prosecution of the hon. and learned Gentleman's Bill wholly unnecessary, and the hon. and learned Member for Plymouth (Mr. Collier) had said that if he were assured it was the intention of the Government to prosecute their Bill, he did not intend to proceed with his Bill. The Government never entertained any other intention than that of diligently prosecuting the Bill they had laid on the table; and, if it should be the pleasure of the House to read it a second time on the 23rd instant, he hoped it would be pressed through Committee, so as to go up to the House of Lords within the first seven days of July.

MEMORIAL FROM THE GUARDS—QUESTION.

MAJOR SIBTHORP said, he would beg to inquire of the hon. Under Secretary for the War Department whether any reply to the Memorial of the Guards had been drawn up at the War Office; and, if so, whether there would be any objection to lay it upon the table of the House?

MR. FREDERICK PEEL said, that a reply had been sent by the War Office, stating the grounds on which that department considered that the Memorial was without foundation. No further correspondence had taken place, and the position of the Guards remained as it had been before the Memorial was presented. Under those circumstances he did not see that any public advantage would be gained by laying the reply of the War Department on the table.

ST. PANCRAS WORKHOUSE—QUESTION.

SIR JOHN PAKINGTON said, he would beg to ask the right hon. Gentleman the President of the Poor Law Board whether any progress had yet been made in the correction of the great evils which had arisen from the crowded state and defective accommodation of St. Pancras Workhouse; and, if not, whether he intended to take any steps to require and enforce the necessary improvements?

MR. BOUVERIE said, he would state for the information of the right hon. Gentleman and the House, what had taken place since the right hon. Gentleman had last asked the question. The report of Dr. Jones, on the subject of St. Pancras

Workhouse, was forwarded to the directors of the poor under the local Act for the Government of St. Pancras in the month of February. On the 29th of the same month the Poor Law Board received a letter from the directors acknowledging the receipt of the communication, and stating that certain measures for improvements were contemplated being put in operation for putting an end to the state of things to which the right hon. Baronet had referred. On the 4th of March the Poor Law Board wrote, expressing their satisfaction at hearing measures of improvement were contemplated, and hoping no time would be lost. A month after that letter was written he thought it right to instruct the inspector of the metropolitan district again to visit the workhouse, and report what progress had been made. On the 22nd of April the inspector's report was received, stating that no material improvement whatever had been effected upon the state of things reported on by Dr. Jones. The Poor Law Board then addressed a further letter to the directors of the poor, expressing regret at finding no improvement made, and intimating that, unless very material changes were effected in the condition of the workhouse, within two months the Poor Law Board would issue a peremptory order for reducing the number of persons in the workhouse. The two months would expire at the end of July. But he should, in justice to the directors of the poor, who, he believed, were really anxious to carry into effect material measures of improvement—in justice to them, he should read a letter from the senior churchwarden and chairman of the directors. It was as follows:—

"I beg to inform you that, although the present guardians have been in office only two months, vast improvements have been effected. The relieving-office has been enlarged and ventilated and adapted to a new system of out-door relief, to prevent crowding and waiting. Many improvements in the arrangement and management of the workhouse have also been effected, and the schools will be removed in a short time. It is only right that I should state—it would be unfair to the new directors not to do so—that they are doing all they can to alter the wretched state of affairs which they found on coming into power."

He believed the directors were anxious for improvement, although they had difficulties to encounter, not being absolute directors, but having to refer to and fro to their vestry; but he hoped with the creditable disposition of those Gentlemen, that material and effective changes would soon be made.

SIR JOHN PAKINGTON said, he hoped it would be known that, if improvements were not made within two months, the Government had the power to compel the directors to effect them.

MR. BOUVERIE said, they had certain power over the officers of the workhouses, but no direct power over the directors of the poor.

CLERKS OF NISI PRIUS IN DUBLIN— QUESTION.

MR. KENNEDY said, he would beg to ask the right hon. and learned Gentleman the Attorney General for Ireland whether it was the intention of Her Majesty's Government to take any steps for providing an increase of salary for the clerks of Nisi Prius in Dublin, in consequence of the increased duties and expenses imposed on them—1, by the establishment of the Consolidated Nisi Prius Court in Dublin; and 2, by the Act called "The Common Law Procedure Act?"

MR. J. D. FITZGERALD said, in the first place he must inform the hon. and learned Gentleman that to make any alteration legislation would be necessary, and, having regard to the position of Irish business and the facilities given, he did not think it wise to add another to the string of Bills upon the paper for the present Session. The matter was under consideration with regard to these and other officers, with a view to place them on a permanent and more satisfactory footing.

STEAM COMMUNICATION WITH AUS- TRALIA—QUESTION.

MR. MACARTNEY said, he begged to ask the hon. Secretary to the Treasury what provision would be made for the conveyance of the Australian mails between England and Suez, in case parties tendered for carrying the mails to Sydney from Suez, *via* Point de Galle? Also, under what head of expenditure, in the Appropriation Acts of 1854 and 1855, will be the sums of £125,000 and £5,600, expended by the Board of Ordnance in purchasing lands at Aldershot and the adjoining parishes, for the purpose of forming a permanent camp there?

MR. WILSON said, that hon. Members were aware that at the present time a contract existed with the Peninsular and Oriental Company for the conveyance of mails to Suez. It would, therefore, be obviously inconsistent to propose a new contract for the same route, as in that

case the payment for the carriage of mails as far as Suez would be made twice over. Any new company, therefore, must be willing to conform to such conditions as the Government may think proper, while the contract with the Peninsular and Oriental Company lasted. He could not answer the hon. Gentleman's second question then, but he would do so at a future time.

PUNISHMENT OF DEATH.

MR. W. EWART: * I could have wished, Sir, that this question had come forward at a time more favourable to calm consideration and deliberate debate, not at the conclusion of a trial of deep and absorbing interest. But the machinery of Parliament moves on undisturbed by external events. I feared that a brief delay might become an indefinite postponement of the question, and I hope that the present solemn occasion may even invite public attention to the serious subject which is now before us. That subject appears to me to be one of increased and increasing interest. Since I last addressed you concerning it, the public aversion to capital punishment has become deepened and extended. Our juries have become more reluctant to convict. Our Judges have become more reluctant to pass sentence. Of one species of murder it may be said that it has ceased to be capital. I mean infanticide by mothers. Yet whom should the laws more vigilantly protect than those who are themselves unprotected? Of one class of murderers it may be remarked, that they are beginning to escape capital punishment altogether. I mean women. Yet it has been truly observed, that "crime is of no sex." If you cease to execute women, can you long continue to execute men? Your executions only amounted to five in the last year of the criminal returns. It is not easy to conceive that the safety of society depends on the execution of five individuals. On the other hand, the repeal of capital punishment has extended itself in foreign countries. It has there been followed, not by danger, but by general benefit. Under these circumstances, I ask you again to consider the question, not to precipitate your conclusion by a sudden abrogation of the present law, but to investigate (before a Committee) the facts which we offer to lay before you: in a word—to pause and to inquire.

I am aware that there are those who entertain a preliminary objection to the

Mr. Wilson

consideration of this subject. Their objection is founded on religious (or what I should rather venture to call theological) grounds. For an objection so founded, I can only feel the highest respect. But it appears to me that the House of Commons never enters on the path of theology without deserting the more open and safer road of common sense. I think, moreover, that questions of a religious character should not be contaminated by exposure to the heated and feverish atmosphere of a political assembly. On such subjects let every man form his separate and sincere opinion. But in this House let him only express, not argue on, that opinion. For my own part I have been long convinced that the repeal of the punishment of death is in strict conformity with the precepts and the spirit of the Gospel; and I rejoice to think that such was the conviction of those early Christians, on whom the first dawn of Revelation still continued to shed its lingering light.

The question then resolves itself into one of a practical and purely deliberative character. Does the punishment of death contain the elements of a sound and valid punishment? What are the elements of such a punishment? This is the question now before us.

It appears to me that a punishment, to be a valid punishment, should, as far as possible, be an effective punishment; effective on the mind and soul of the criminal, and effective for the repression of the crime; that it should, as far as possible, be an equal punishment; not unduly weighing down and overwhelming one individual, while it produces little or no effect upon another; that it should especially be a certain punishment; I mean certain in its infliction, since certainty is the essence of punishment, as publicity has been said to be the soul of justice; and lastly (since all mankind are liable to err), that it should be a reversible, remediable, or revocable punishment. Does the punishment of death contain within itself these qualities? It appears to me that it is more than other punishments wanting in all of them.

Is it, in the first place, an effective punishment? The frequency of murders in our time does not seem to prove that it is so. It has often been stated, and never, that I am aware, contradicted, that out of a large number of executions, attested by a former Ordinary of Newgate, the great majority were undergone by those who had witnessed

executions. But let us descend from general statements to individual facts. It is no agreeable task to undertake what may be called the morbid anatomy of crime. The mind naturally shrinks from such an undertaking. But it has been my duty to investigate such cases, and I now lay the following extracts from them before the House. Not many years since (in 1846) a criminal, Wicks, was executed at Newgate. He had lately seen an execution. He stated that he was "induced to commit the crime that he might signalise himself as a hero on the scaffold." In 1845 another criminal, Connor, committed murder. He had seen an execution on the very morning of the day on which he committed that murder. A criminal, Mobbs, was executed in 1853. Another criminal was brought before the police office, on the day of Mobbs' execution, for trying to imitate his crime, and (according to his own avowal) "to be executed for it." In 1854, Cumming (a man supposed by many to have been innocent) was executed at Edinburgh. After his execution, another man, Wallace, was taken into custody for perpetrating the same species of crime. A Scottish paper, *The Scotsman*, states that a number of similar crimes followed the execution of Cumming. But we witnessed, not long since, a remarkable case in Ireland, in which the criminals not only patiently endured, but gloried in, their punishment. Three men, it will be remembered, were executed at Monaghan, for the atrocious murder of Mr. Bateson. They were utterly indifferent to the punishment of death. They eat and smoked just before their execution. One of them stated that, if a reprieve came, he would not accept it. They said that the executioner was doing "the best deed that had ever been done for them." When one of them was asked on the scaffold whether he would say anything, he answered, "No! our Saviour said nothing when he was executed." It may be said that this was the effect of fanatical excitement, under the influence of the Catholic religion. But similar instances have occurred in the case of Protestants. In 1852, Elizabeth Pinckard was executed at Northampton:—

"On the fatal morning," (says the *Northampton Mercury*) "she attended prayers in the chapel; when the hymn was being sung her voice was heard above the rest. She went with perfect indifference to execution."

On the other hand, criminals possessed of no religious feeling whatsoever, have ex-

hibited the same indifference. Such appears to have been the case with Sarah Chesham, who committed fourteen murders by poisoning, and who never showed any symptoms of repentance or of fear. So likewise, lately, Bartélemi, an avowed unbeliever, died entirely unconcerned; he went to execution not only with indifference, but with a sort of fanatical curiosity. It would be easy to accumulate more instances; but I think that those I have adduced will tend at least to show that the punishment of death is not an effective punishment. Is it an equal punishment? I do not mean to argue that any punishment can be equal in its operation on all men, any more than I mean to argue that any punishment can be equally effective on all. But I say that there are other punishments more equal than this and more effective. Instances of stoical indifference we have already seen. Here are instances of a contrary effect. It is not long since a woman, Martha Browning was executed at Newgate; she fell down insensible; in that state she was executed. At Chester, a woman, Mary Gallop, could not go to her execution; she was carried to the scaffold in a chair, and executed in a state of insensibility. A very painful case of suffering was lately recorded in Jersey, by M. Victor Hugo; on which occasion he addressed a memorable letter to the Secretary of State for the Home Department. In 1851, Thomas Drory was executed at Chelmsford; he was obliged to be supported as he went to execution. We have fresh in our memory the recent case of Bousfield. We remember the prostration of the prisoner; the faltering of the executioner; the miserable struggle between them at the last; and the indignation and execrations of the public. I come now to a very important, perhaps the most important, element in the constitution of a punishment. I mean its certainty of infliction. It is well known that Beccaria, at the opening of one of the chapters of his celebrated work, lays it down as a doctrine that "one of the greatest of all checks on crime consists not in the cruelty, but in the certainty, of its punishment." If the doctrine be true as to crimes in general, it appears to me to be much more applicable to the graver class of crimes, and most applicable to the gravest of all crimes, murder. But, if I may trust to the records of our punishments for a series of years, punishment is much less certain in this single case which remains capital, than in those which are no longer so.

Statistics, however, are the constant subject of dispute; they are the debateable land, the border-ground of controversy. I prefer to appeal to facts. I will first exhibit the operation of the maintenance of capital punishment on our juries; secondly, its operation on our Judges; lastly, on what may be called our tribunal of ultimate appeal, the Home Department. First, with respect to the uncertainty of the verdicts of our juries. In 1847, a woman (already referred to), Sarah Chesham, was tried at Chelmsford for poisoning. The case, a most atrocious one, was clearly proved; but the jury, led by their foreman, an enemy to capital punishment, acquitted the prisoner. The acquittal enabled her to resume her career of poisoning; she practised it with augmented skill, acquired from the evidence of a medical witness at the trial. The victims were her own children. In 1848 she was again tried, and again acquitted. In 1851 she was executed for poisoning her husband. Now, had there been another punishment (such as imprisonment for life) attached to the crime of murder, there is no doubt that she would have been found guilty on the first indictment. All her subsequent crimes would have been checked. All her subsequent victims would have been saved; nor would her example have misled others. For, in 1849, a woman, named May, was also executed at Chelmsford for poisoning; she attributed to the example of the first-named criminal, the crime for which she suffered. Two criminals, Battersby and Wilkinson, were tried in 1851 at York. The proof of murder was, to all common apprehension, clear. The Judge told the jury that it was difficult to believe that the death was caused by manslaughter. Yet the jury returned a verdict of manslaughter. In January, 1852, Thomas Bare was proved, by the strongest evidence, to have murdered his own wife. He even acknowledged that he deserved to be executed. Yet he was acquitted by the jury. *The Times* of that date thus concludes a leading article: "If there be such a crime as murder, this is murder; and murder of no common atrocity." It adds that (in cases involving capital punishment) "the Judge, Jury, Home Secretary, and public, contend to mitigate the crime of murder." In the case of the Matfen murder, tried on the 27th March last, at Durham, the guilt of one prisoner appeared certain. A jurymen, however, told a person, who can be produced, that they all "agreed on a ver-

Mr. W. Ewart

dict of acquittal rather than the man should hang." In the case of Westron, tried at the Central Criminal Court, in February, 1856, the jury said—

"We find the prisoner guilty of Wilful Murder. We do not think he ought to be acquitted on the ground of insanity; but we recommend him to mercy, because we find there was a predisposition to insanity."

The law of the country could justify no such recommendation. *The Times* newspaper, of February 8, 1856, calls the verdict "an anomaly in criminal proceedings, and one of most evil precedent." Last year (1855), at Maidstone, during the spring assizes, Elizabeth Avis Lawes was tried for murder. Her guilt was clear. She afterwards confessed it. Yet she was acquitted. *The South Eastern Gazette*, of that date, says this is "a memorable example of the impunity awarded to murderers." I can produce (if I am allowed to bring evidence before a Committee) instances of jurors having stated that they would have found prisoners guilty, as they were bound to do; but when they learnt from the Judge that the penalty would be death, they resolved on an acquittal. So far for the effect on our juries.

But let us turn to the feelings and opinions of our Judges. Do they not indicate a change with regard to this question, corresponding with the change observable in public feeling and opinion? And first, as to the feelings of our Judges on pronouncing sentence of death. Among other instances, I find the following facts recorded in the journals of the day. At a late trial for murder at Bodmin—

"The learned Judge, on pronouncing sentence, expressed himself with much emotion: in the last sentence his utterance was almost choked; after completing it, his Lordship burst into tears, and continued weeping for some time."

So, in the case of a trial at Aylesbury—

"During the delivery of the sentence, his Lordship appeared almost choked with emotion."

Again, in a case tried at Exeter—

"The Judge at last came to the sentence; but his sobs, which could be heard all over the court, prevented him from proceeding. He rested his head on his hand, and wept most bitterly. He then, in broken words, and with a voice almost stifled by emotion, pronounced the sentence."

I mention these facts (to which it would be easy for me to add more) as highly honourable to our Judges. But they indicate a state of feeling with respect to capital punishment which did not exist in

former times. How different from those times in which Pope could say—

“Hard words and hanging if your Judge be Page.”

Can the expression of such feelings by the Judges fail to produce sympathetic feelings on the part of juries and of the public? What effect has it on the mind of the prisoner, and on the minds of criminals in general? Does it not, so far as it extends, add to the uncertainty of the execution of the law by showing the disinclination of our Judges to inflict the punishment of death?

Such, then, are the feelings of the Judges. But what are their recorded opinions? Nine years ago (in the year 1847), a Committee of the House of Lords investigated the subject of criminal punishment. The written opinions of the Judges were taken in evidence. Among the questions proposed to them was this: “Do you think any punishment would be a sufficient substitute for death?” Out of all the Judges of England, Scotland, and Ireland, four delivered their opinions in favour of substituting another punishment. Several declined to give an opinion, or declared themselves doubtful. First, let us take the Lord Chief Justice (Denman). He declines to give an opinion. Next, Mr. Justice Wightman. His answer is as follows:—

“There can be little doubt that a secondary punishment may be made so severe as to be a sufficient substitute for the punishment of death.”

Mr. Justice Maule: he gives no answer. Mr. Justice Coltman: he answers:—

“I am disposed to think that imprisonment for life, without any remission of the sentence, might be substituted for capital punishment. Many guilty persons now escape who would then be convicted. I do not think the apprehension of death operates much on the mind of a man meditating a great crime.”

The answer of Lord Chief Justice Wilde is as follows:—

“The question involves considerations much too grave to warrant a hasty opinion, however great may be the objections to the punishment of death; and, in my opinion, they are very great.”

From the Irish Bench, Mr. Justice Perrin thus answers the question, “Do you think any punishment, by transportation or imprisonment, would be a sufficient substitute for death?”

“I do. I am convinced that juries acquit or disagree from an apprehension of taking away life.”

Chief Baron Richards also answers:—

“I am inclined to think that transportation attended with stringent regulations might be substituted for the punishment of death. But I cannot say that I have formed a very decided opinion.”

Now, if nine years ago many of the Judges were doubtful as to the expediency of inflicting the punishment of death, or opposed to it, is it likely that they would be less doubtful or less unfavourable now? Is it not rather more probable that the Judges who have been since appointed, and the Judges who are being appointed from time to time may be still more disinclined to such a punishment; just as the Judges of the year 1847 were more disinclined to it than the Judges of the year 1827? Here, again, is another and an increasing element of uncertainty. Let us now turn to the final tribunal of appeal, the Home Office. Are there no elements of uncertainty here? Do not Members know that if a sentence of death is impending in any of the towns they represent they are frequently called on to interpose? Do not deputations hurry up to London? Are there not those who, resident in London, on almost every occasion, exert themselves to intercept the execution of the law? The hon. Member for East Surrey (Mr. Drummond) has signified his intention of endeavouring to relieve the Home Secretary from this assiduity of intervention. But, with great respect for the hon. Gentleman, I think he is undertaking nothing less than the task of the Danaids. For my own part, I feel bound to testify, on behalf of those who make these applications, their sense of the ready attention of the right hon. Secretary to every fact which may tend to mitigate the sentence. Nevertheless, the public do not understand on what principle some criminals are executed, after appeal to the Home Office, while others, apparently of equal guilt, escape. We all remember, a few years ago, the case of Annette Meyer. There appeared to be, in her case, full premeditation of the murder. Yet she escaped the punishment of death. Not long since, the case of Corrigan, whose sentence was remitted, called forth the animadversions of the press and of the public. Still more, the recent case of Celestina Somner. She coolly and cruelly premeditated and prepared for the murder of her child. Few instances of more unrelenting cruelty have been recorded. Yet she, too, escaped. After this and similar cases, I

doubt very much whether you can long continue to execute women. You may try to bring us back to the ancient rigour of the law. It will be in vain. The evil lies not in the administration of the law, but to the nature of the punishment awarded by the law. Here, in my opinion, is the source and origin of the evil. The power of the executive at the Home Office is enfeebled by the awful responsibility involved in the punishment. This is in itself an element of uncertainty. But there are others. Different Secretaries may be of different minds. The present Secretary may be of a lenient, his successor may be of a severer character. A crime which would escape the punishment of death under the one would incur such punishment under the other. Again, the Secretaries of State generally refer the case back for reconsideration to the Judge who tried it. Judges differ in their characters as Secretaries do. A sentence which one Judge might mitigate, another Judge might be determined to maintain. Here, again, arises another cause to be added to the various causes I have already cited of the uncertainty of capital punishment.

I have said that an essential ingredient in the character of a punishment should be its reversibility; its revocable or remedial nature. It is not likely that, in these times, the execution of an innocent person can occur. Nevertheless, though not likely, it is not impossible. For felonies inferior to murder, but of an aggravated character, it is easy to cite instances of innocent persons having been punished. They have been brought back from transportation, and their sentences have been revoked. I have myself brought such cases under the consideration of this House. The case of Eliza Fenning, executed many years ago for the alleged crime of attempting to poison the family of her master, a crime of which she was afterwards shown to be innocent, is familiar to most of us. But, more recently, in the case of Mr. Bateson's murder, two men, the Kellys, were twice or three times put upon their trial for life for that murder, under the sanction of the most eminent of the Solicitors and Attorneys General for Ireland. The two Kellys were seen to run across a field after the shot was fired; they were entirely innocent, yet they might have been convicted—and of one of them, it is stated in an Irish paper, that he has since died of a broken heart.

Mr. W. Ewart

in consequence of the prosecution. Three other men were afterwards proved to have committed the murder. A very short time ago a man named Cummings was executed at Edinburgh. He is now generally believed to have been innocent. Such are the dangers which attend an irremediable punishment.

These, then, as I have classed them, are the principal impediments to the execution of capital punishment. The question naturally suggests itself—whence in all their stages arise these impediments to the law? How comes there to be this consentaneous restriction by juries, by Judges, by the Home Office, and the public, to the infliction of the sentence of the law? I believe that these impediments arise from two causes. No punishment has been found to be an approved or lasting punishment which contains in it the principle of retaliatory revenge. We know that in the time of Queen Elizabeth the punishment of branding was adopted—it could not be maintained. In the same way the punishment of the pillory and other ignominious punishments have speedily or gradually vanished. In more remote times we find the principle of retaliatory vengeance carried to its greatest excess. Yet in those times, crimes abounded. Capital punishment is nearly the last trace which we retain of the principle of retaliatory revenge; and the more we advance in civilisation, the more deep our religious feelings become, the greater will be our repugnance to the punishment of death. Another, and an unconquerable objection, arises from the irremediable nature of the punishment. Never, while human nature exists, never will you induce mankind to view a punishment which cannot be remitted or recalled in the same light in which they view a remissible or revocable punishment. This objection, too, will infallibly increase as society advances.

Such appears to me to be the real causes of the non-execution of the law.

But what remedies have been proposed? A distinguished and right rev. Prelate (the Bishop of Oxford) has lately suggested the consideration of a new mode of conducting executions. They are no longer to be witnessed by the public, but by a sort of deputation on behalf of the public. This system would, no doubt, exclude the evils arising from a vast congregation of the people, their vindictiveness, or their indifference, their profaneness, their revelry, and their crimes. Nor can it be doubted

that these evils are aggravated by the facilities of intercourse in modern times. Even now, I am told, special trains are announced in the newspapers as about to run to and from Stafford to enable the public to witness the last moments of an expected victim. All these, the mere external evils of publicity, will be removed by the change proposed. But publicity, in modern times, does not consist so much in seeing, as in reading an account of what occurs. A few thousands witness an execution, many millions read of it. You may exclude the public, but you cannot exclude the press. The interest taken in an execution will continue to exist. It will even be aggravated and stimulated by concealment. Public curiosity will rush the more eagerly *per vetitum nefas*. The most minute details will have to be recorded; more minute, if possible, than those which are recorded now. By adopting this change you will have only veiled, not removed, the evil. Another system proposed is very nearly the one prevailing now; that of occasional executions. In the first place, this system abandons the principle of a fixed punishment for murder. It substitutes a possibility of execution for a certainty of execution. It encourages a species of gambling in crime. When you have arrived at occasional punishment, you have abandoned one fixed punishment, and you have not arrived at another fixed punishment. This is a most vague and fluctuating, and consequently a most impolitic and unjust, state of the criminal law. Now, what remedy do we venture to propose?

We suggest the substitution of a lesser punishment attended with comparative certainty of execution, for a severer punishment attended with uncertainty. And we rest our cause on those words of the illustrious Beccaria:

“The certainty of a more moderate punishment will always produce a greater impression than the fear of a more terrible punishment, accompanied with the hope of impunity.”

This is our principle. We, not you, are the real friends of effective punishment for crime. You call us false philosophers, theorists, and speculative reformers: while we in fact pursue a clear, practical, and decided course. It is you who, by lingering in a system no longer maintainable, enfeeble the arm of justice and promote impunity for crime.

We have not proved theorists as to the other numerous cases (of forgery, of house-

breaking, of stealing in dwelling-houses, of cattle-stealing) for which we have induced you tardily and unwillingly to abolish the punishment of death. In not one of those cases can an advocate be found for the restoration of capital punishment. But we also appeal to the example of foreign countries. If foreign nations can successfully abolish capital punishment, why should not we? The case of Tuscany, under Leopold II., has often been referred to. The successful repeal of the punishment of death in Tuscany (dated November 30, 1786) has never, that I am aware, been denied. And, though in the first excesses of the French Revolution capital punishment was revived, it appears since that time to have been gradually dying out in Tuscany. In 1838 the unanimous consent of the Judges was required for its infliction. This enactment amounted almost to abolition. In 1847, the Grand Duke abolished it in the Duchy of Lucca, and in 1849 he sanctioned the Decree of the Provisional Government which had suppressed capital punishment in Tuscany. It appears from the writings of the Rev. Mr. Townshend, that in Bavaria, reformatory discipline and imprisonment are successfully substituted for the punishment of death. In Switzerland, capital punishment has been abolished in the cantons of Freiburg and Neuchâtel. In Freiburg, the abolition took place eight years ago. My informant, a member of the Legislation of Neuchâtel, assures me that crime has not increased there; while, in the canton of Berne, where executions are frequent, great crimes are frequent also. In Neuchâtel, the repeal of capital punishment is more recent. So far, I understand, it has given general satisfaction. Let us now turn to America. From a speech of Mr. Andrews, delivered before a Committee of the Legislature of Massachusetts, March 22, 1855, I learn that, “Alabama abolished capital punishment many years ago.” He adds “the experiment may be considered to work well in Alabama.” The State of Michigan led the way in the career of total abolition. The Secretary of State (as quoted by Mr. Andrews) says, in 1846,

“It has produced a greater certainty of conviction, consequently of relief to the community, lessening the number of aggravated offences. There is no probability of a return to the old law.”

This is the result of an experiment of nine years in Michigan. Of Rhode Island (where capital punishment appears to have

such rapid strides it was now impossible to detect the presence of poison. Was that a reason for giving increased facilities to poisoners? The hon. Gentleman the Member for Sheffield (Mr. Hadfield) had told them that Judges sometimes wept while pronouncing sentence of death, and both that hon. Gentleman and the hon. Member for Dumfries called on the House not to subject Judges to so disagreeable a task. However, both those hon. Members had been supporters of the late war. Where were their horrors at the duty which the generals engaged in that war had to carry out? Were they desirous of putting an end to war? Did they think that their generals and colonels had no feeling when giving orders that doomed men to destruction? Pictures more horrible than anything that could be drawn at public executions might be painted of scenes in every way. He had thought it right, in answer to the Motion of the hon. Member for Dumfries, to put on the paper a notice of his intention to suggest that some means should be taken to relieve the Secretary of State from the importunities to which he was subjected from persons who sought to get reprieves for criminals sentenced to capital punishment. He (Mr. Drummond) had been acquainted with the late Sir Fowell Buxton, and he had never met him but he found he was engaged in some scheme to get off some scoundrel under sentence of death. On the first occasion of his meeting his late Friend, he was on an expedition of that sort to the then Secretary of State for the Home Department, Sir Robert Peel. He (Mr. Drummond) asked him was there any doubt of the prisoner's guilt? His friend replied there was not. He (Mr. Drummond) then asked him why he interfered? The hon. Gentleman replied that he felt it his duty to interfere. The next time he met him he was visiting the prisons of Rome, and he went to the Pope to beg some of the prisoners off. Now, he had no doubt that the Pope told him to mind his own affairs. The last time he met his friend, the right hon. Gentleman the Member for the University of Cambridge (Mr. Walpole) was Secretary of State for the Home Department, and the gentleman in question was, with others, about to wait on him on behalf of a criminal who had committed an atrocious murder at Bath. In that case the Judge had expressed his approval of the verdict of the jury; and he (Mr. Drummond) refused to accompany

Mr. Drummond

his friend and others to the Secretary of State, for which refusal his right hon. Friend (Mr. Walpole) thanked him for not countenancing the deputation. The House might judge of the importunities to which a Gentleman in the position at present occupied by his right hon. Friend (Sir G. Grey) was subjected. There was at present a petition, to which signatures were being obtained, and which was to be presented to his right hon. Friend. In that petition the fellows who signed it stated that they were not satisfied with a certain trial. How could they be? They had not been the jurors; they had not been the Judges—how could they know anything about the matter? Then came Mr. Herapath. He (Mr. Drummond) would not say what Mr. Herapath's opinion was about, for it was not worth much, unless he (Mr. Drummond) was greatly misinformed. A right hon. Gentleman was present who could contradict him if he was wrong in stating that on a particular occasion, when the right hon. Gentleman was Secretary of State, Mr. Herapath importuned him to stay an execution, because he was sure that a certain drug had not been used. Well, it turned out that at the very moment when Mr. Herapath was so importuning the Secretary of State, the criminal was confessing to having committed the crime. Was it not heartrending that the Secretary of State should be put in such a position and subjected to such a pressure? Originally a person tried in the country was left in the custody of the sheriffs, with a mark opposite his name if he were to be executed, and the sheriffs saw that the sentence was carried into effect. In London the sentence was reported to the Recorder, who reported it to the Sovereign. However, that system had since been altered. Now, what he (Mr. Drummond) proposed was, that when a respite was sought for, reference should be made to a Commission to which the Crown could refer cases in which reconsideration might be deemed necessary. That body might comprise the President of the Council, the Judge who tried the case, the Lord Chief Justices of the Queen's Bench and the Common Pleas, and the Law Chancellor; and, if it should appear to them that fresh evidence had been discovered, then they could advise the Crown to interpose. He (Mr. Drummond) did not seek to interfere with the prerogative of the Crown. The Sovereign might send the whole regiment of Horse Guards

his own country at least thirty persons brought up to receive a sentence of death that was never intended to be carried out. Subsequently the ceremony of sentencing to death in such cases as those to which he alluded was dispensed with, and the sentence merely recorded in the books of the Court. There had been no execution in the country, except for wilful murder, saving in one case, since 1841. That exceptional case had been alluded to by his hon. Friend. He (Mr. Hadfield) rejoiced that he was not the man with whom the responsibility of Palmer's death rested. At the same time he admitted that the power to reprieve could not be placed in better hands than those of the right hon. Baronet who at present filled the office of Secretary of State for the Home Department. To assent to the Motion of the hon. Gentleman (Mr. W. Ewart) would be to follow the course which was commenced by those great men, Sir Samuel Romilly, Sir James Macintosh, and Sir Robert Peel, with whom he would now associate the hon. Member for Dumfries. The passing of sentence of death frequently gave rise to the most painful scenes in court. There were instances of mere children having been tried and convicted to capital punishment. In one of those cases Mr. Justice Talfourd covered his face with his hands and sank back upon his seat with grief. It was desirable the Committee should be granted to ascertain whether the punishment of death had been instrumental in procuring that which its advocates supposed to be accomplished by this severe punishment, or whether it had not a contrary effect, and a tendency to brutalise society at large. He therefore trusted the House would grant the Committee.

MR. DRUMMOND said, he would venture to occupy the time of the House for a few minutes—not certainly with the presumptuous idea of interfering to convert public opinion, because he had not the presumption to imagine that, in the year 1856, for the first time since the creation of the world, men were about to learn how they should punish for crime. Men having, through all ages and at all times continued the punishment of death, it appeared to him to be monstrous presumption to pass so sweeping a censure upon all that had been done in former times. The hon. Mover had stated that as it was impossible to prevent the course of justice being occasionally impeded and the judg-

ments of tribunals defeated, therefore capital punishment should be abolished. A Select Committee was asked for to inquire into the operation of the law imposing the punishment of death. Why, what could be the operation of that law, if carried out, but simply death? That would be its operation if it were allowed to operate, but if persons chose to intervene then it would not act at all. The hon. Gentleman had objected to the introduction of religion upon this matter, but nevertheless had the hardihood to declare that the punishment of death was contrary to the spirit and practice of the Gospel. But surely there could not be a sentence expressed in plainer words than that which said, "Whoso sheddeth man's blood by man shall his blood be shed." It was absurd to hold forth the Bible as the religion of Protestants if they were to set aside plain words which could not be controverted, and upon which their law should be founded. It was argued, however, that the words applied to a Jewish people and not to Christians; but he (Mr. Drummond) had heard of a bishop, somewhat famous in Christian history, who, when a man told him a lie, immediately struck him dead, and so far from repenting of the act soon after administered the same punishment to that man's wife for a similar offence. What would Exeter Hall say if a bishop were now to strike a man dead for a lie? The hon. Gentleman (Mr. W. Ewart) said that the evil of punishment of death was its uncertainty. Why, what could be so certain? The hon. Gentleman meant, perhaps, it was not with certainty carried into effect. Was that what he meant? And he proposed to substitute for this punishment of death perpetual imprisonment. Had the hon. Gentleman any argument to show that that punishment of perpetual imprisonment would be with certainty carried into effect? The same argument on the ground of uncertainty would apply against any other species of punishment as well as against that of capital punishment. The hon. Gentleman had appealed to the opinion of jurors. The hon. Gentleman and those who acted with him had told juries to prepare themselves. That was the effect of their glorious teaching; that was the effect of their poisoning the public mind. The hon. Gentleman promised them increased civilisation and increased intelligence if they put an end to punishment by death. He said that the science of poison had made

opinion that it is contrary to the Gospel to inflict capital punishment for any crime. The hon. Member has two alternatives—either to admit the theological grounds, and encounter those who object, on alleged scriptural grounds, even to consider the question of abolishing capital punishment for murder, or to reject the theological grounds, and give up the support of those who petition for its abolition as objectionable and unlawful, because in their view it is opposed to the spirit of the Gospel. One other preliminary observation as to these petitions—a good many have been presented for the total abolition of the punishment of death, and none have been presented against such abolition. Now, I will admit that if it were a case of an ordinary kind, a strong inference might be drawn that public opinion ran strongly in one direction, and that it was the general desire of the country that capital punishment should be abolished. That inference cannot, however, be legitimately drawn in this instance. There are numbers of persons who, actuated no doubt by feelings of humanity, devote their time and their best exertions to procure the abolition of the punishment of death. They get up petitions upon the subject. Many of the petitions bear so great a similarity to one another that, in fact, they are almost stereotyped in the same terms. They express, no doubt, the opinions of those who sign them. But a feeling of humanity in men's minds deters them from asking that capital punishment shall be enforced, and thus it is that in particular cases importunity is always one-sided. As long as a man is suspected of being guilty of an atrocious murder the feeling of the people is against the criminal and with the law. They are anxious that no means shall be omitted which can insure the conviction of the prisoner, if he be guilty of the crime of which he is charged. But the moment he is convicted and sentenced to punishment, be it death or transportation, a certain number immediately sympathise with the criminal, look upon him as an object of pity, and exert themselves to obtain a commutation or remission of his sentence; while, on the other hand, no one petitions that the person on whom sentence is passed shall not be recommended to mercy. Public feeling is not expressed accurately. The opinion against remission is, in many cases, strongly but silently entertained. Do not let us, therefore, suppose that the real feeling of the people is expressed by petitions on this subject. One

Sir George Grey

other preliminary observation. When the hon. Member for Sheffield (Mr. Hadfield) enumerated the names of great men who assisted benevolent persons like the hon. Member for Dumfries in their exertions to mitigate the severity of the criminal law, he mentioned those of Sir Samuel Romilly and Sir Robert Peel; but history and Parliamentary records prove that, although they were favourable to removing capital punishment from a great many crimes, the hon. Gentleman is in error in supposing they were among those who ask that in the case of a person guilty of the atrocious crime of murder he shall not suffer death as the punishment of that offence. My hon. Friend the Member for Dumfries placed this question on the ground of expediency, and asked, is it desirable to retain the punishment of death for murder? He has defined what he conceives punishment ought always to comprise. He said, first, that it should be effective for the repression of crime; secondly, that it should be equal; thirdly, that it should be certain; and, fourthly, that it should be revocable. Following those points, relying chiefly on the first—namely, the efficiency of the punishment, I must express my opinion—an opinion which I strongly entertain, which is confirmed more and more by reference to statistical records, and which rests on the inward conviction of every man's mind, that is not capable of being refuted—that the punishment of death is looked to with greater dread than any other punishment, and is more effectual than any other in repressing crime. I observe that, at the meeting held in the City yesterday, from which a petition has to-night been presented, it was stated as evidence of its inefficiency, that whereas all those crimes with regard to which the punishment of death was repealed had diminished, the crime of murder, for which it was retained, had increased. Now without going into statistics, I may state at once that the contrary is the fact. My hon. Friend must give me leave to state to him, that he is mistaken in supposing that his statistics warrant the conclusion that the abolition of capital punishment has caused a diminution in the number of those offences to which the penalty of death was at one time attached. Not only is that not true, but the very reverse is the fact. Robberies, burglaries, and other felonies of the secondary class have increased in number, and progressively so, since the punishment of death has been abrogated. The crime of murder, on the contrary, has remained

about stationary, but stationary, be it remembered, in relation to a population which is rapidly increasing. The number of persons, committed not convicted, on charges of murder in the year 1845, was sixty-five; in 1854 it was sixty-two. The difference is scarcely appreciable, yet the population had increased in the interim by nearly 2,000,000. Some of the intermediate years show a trifling excess, but it is so very small as scarcely to admit of its being taken into calculation, and upon the whole we are justified in estimating that the crime of murder is rather upon the decrease than the increase. This shows that, let theorists say what they will, the fear of an ignominious death as the punishment of murder does deter some persons from the perpetration of that awful crime. Nor let it be supposed that there is any intention to exempt women from that punishment. During the last ten years fourteen women have been executed for murder, and of these I grieve to say that ten forfeited their lives during the period that I have held the office of Home Secretary. In the year 1849 no fewer than five women were brought to the scaffold. This being the state of the case, I hope that no erroneous opinion will get abroad that women may commit murder with impunity. The next point on which my hon. Friend insisted was, that punishment should be equal, and in this respect he deems the penalty of death defective. He told us that some criminals go to the scaffold without appearing to feel their dreadful position—that they are obdurate, hardened, impenitent, and were anxious to be regarded as heroes; whereas others are so overcome with shame and terror that at last they lose motion and consciousness, and have almost to be dragged to the gallows. But can my hon. Friend suggest any punishment, whether transportation, imprisonment, or penal servitude, which will not be liable to this objection of inequality? If you sentence to transportation a man surrounded by all the luxuries of life, having a wife, children, and friends, to all of whom he is tenderly attached, the punishment will certainly fall upon him with crushing severity; but it will not have the same effect on a man in humble life, who, unmarried and childless, has no friends and relations for whom he cares. This objection of inequality, therefore, is one which applies with equal cogency to all kinds of punishment as well as that of death; therefore, the idea of an absolute equality of punishment is altogether Uto-

pian. But then my hon. Friend urges the argument of "certainty," and contends that the particular punishment annexed to an offence ought in every case to be inflicted. Now, Sir, that is a doctrine which would be found very difficult of application. The law of itself affords a very liberal discretion to Judges as to the period of imprisonment or penal servitude that may be awarded for a stated offence. That which is in the eye of the law the very same crime may be visited with punishment of very different degrees according to the varying circumstances of each particular case. And so with regard to murder; it is impossible to overlook the vast difference in the degrees of guilt that two cases may present. We may imagine a case of the most deliberate and cold-blooded assassination, and we may picture to ourselves another case where, though the jury found the prisoner guilty of murder, his offence was, in point of fact, scarcely distinguishable from manslaughter. If by "certainty," then, you mean that, without reference to the distinctive circumstances, the same punishment shall in each case be inflicted, you will lay down a rule which will be productive of great injustice. It is no uncommon occurrence that, even after the trial has terminated, circumstances not known at the time come unexpectedly to light, which justify an exercise of the Royal clemency on behalf of the condemned person. If this be an evil, will it be remedied by substituting imprisonment or transportation for capital punishment? Assuredly not, for the Royal prerogative will remain untouched. My hon. Friend advocates the infliction of such a punishment as imprisonment for life in the case of murder, making it irrevocable and irremediable, and yet—strange inconsistency!—he objects to capital punishment for the very same reason. The theory is, that a sentence of imprisonment has this advantage over one of capital punishment, that it may be revoked in the event of its being discovered that the verdict was unjust; yet my hon. Friend, from the tenor of his arguments, would destroy that theory and doom to imprisonment without hope of emancipation. With regard to juries it appears to me that my hon. Friend has very much over-stated his case. He would have us believe that one of the consequences of annexing capital punishment to the crime of murder is that juries frequently refuse to convict, even on the clearest evidence. There may have been a few such cases—

though for my own part I know of none—but I am sure that it is true as a general rule that, where the evidence is clear and conclusive, and when it has been laid before the jury with that lucidity, happily so characteristic of the charges of English Judges, juries return a conscientious verdict, and do not disregard the solemn obligation of their oath through a disinclination to pronounce a verdict the consequence of which may be death to the prisoner. No doubt the knowledge that such may be the result of the verdict may make juries and even Judges more willing to present a case to their own mind in the point of view most favourable to the accused, so that they may avoid a mistake that can never be remedied. There have been many cases in which the line between murder and manslaughter—being a very nice one—a verdict of manslaughter, although the evidence might have justified a verdict of murder, has been returned; but it cannot be said that the ends of justice have been defeated by such a result. In that event, the punishment inflicted is what my hon. Friend would award in every instance—that of penal servitude, or transportation, and generally for life. The emotion manifested by Judges in sentencing prisoners to death has really nothing to do with the question. It must be distressing to a Judge to doom a fellow-creature to an ignominious death on the scaffold; but my hon. Friend has failed to mention any occasion on which a Judge has shrunk from the performance of that duty, however painful it may be. With respect to the office of Home Secretary, which I have the honour to hold, I admit with the hon. Member for West Surrey (Mr. Drummond) that there can be no duty more painful than that of receiving the importunate applications made for mercy between the time of passing sentence and that of carrying it into effect; and assuredly there is no duty which requires to be more firmly performed than that which involves the careful examination of the grounds on which such applications are urged. In cases of this nature the Home Secretary, assisted by that legal advice which is always available, puts himself in communication with the Judge who presided at the trial. In the great majority of cases there are no difficulties. If the evidence at the trial was incontrovertible, and if the application does not rest upon matters which have subsequently come to light, but simply upon the general objections which certain well-meaning per-

Sir George Grey

sons entertain towards capital punishment in any form and under any circumstances, the course to be taken by the Home Secretary is clear and does not admit of doubt. Other cases there are, in which the Judge represents to the Government that there are circumstances which render it advisable that the extreme penalty should not be inflicted, and in such cases the Secretary of State is in a great measure relieved from responsibility. But no doubt the duty and responsibility of the Secretary of State have been much increased by a humane alteration of the law made in the last year of the reign of William IV., when a Bill was passed repealing the law by which it was provided that in cases of murder the sentence should be carried into effect on the next day but one after conviction. At that time there were not the same facilities of locomotion as at present, and in many instances the law precluded the possibility of an appeal to the Home Office; the sentence having been carried into effect before it could be known to the Secretary of State to have been passed. There is now a considerable interval between the sentence and execution, during which strong representations and statements of facts, or alleged facts, are sometimes laid before the Secretary of State, even within a few days of the execution, and which, if true, may have an important bearing on the guilt or innocence of the prisoner. Such memorials are referred to the Judge who presided at the trial, with a request that he will send his report on the subject. An instance of this occurred within my own official experience. Great difficulty presented itself in dealing with the statements founded upon affidavit made to the Home Office, and the convict was respited for a week, an intimation being given at the same time to the prison authorities, to be communicated to the convict, that this step did not justify any expectation that the sentence would be remitted, but was only intended to enable the truth of the representations made in favour of the convict to be properly investigated. In some cases of that kind it has turned out that the affidavits were good for nothing, their allegations breaking down as soon as they came to be investigated before the magistrates on the spot, and the sentence was therefore executed. In some instances, however, statements of the previous history of the criminal, of the peculiar circumstances under which the crime was committed, and other considerations which cannot be very

easily explained, have been brought under the attention of the Government, and received that weight to which they were entitled. Some deference must also be paid to public opinion, which cannot be wholly disregarded without enlisting the sympathy of the people on behalf of the criminal and against the law; and the rule, therefore, to be observed is so to administer the law that public opinion shall go along with its enforcement, and that where a prisoner has suffered the extreme penalty it may be generally felt that nothing that told in his favour was overlooked, and that his execution was fully justified. At the same time, if the hon. Member for West Surrey can suggest a mode by which the responsibility of the Secretary of State shall be lessened, he will confer a very great boon on the occupant of an onerous office. Yet I know not how that responsibility can be transferred to other hands, and therefore, while I hold my present situation, I can only say that I shall continue to exercise the power intrusted to me impartially, firmly, and to the best of my ability, with an earnest desire to render the law efficacious for the repression of crime. My hon. Friend (Mr. W. Ewart) says that as the science of chemistry advances the difficulty of detecting murder by poisoning will increase. That is a most dangerous doctrine; but, happily, it has no solid foundation. The crime of poisoning by arsenic used to be very common, but it has been checked, because the progress of chemical research enables it to be discovered with certainty. Such, I believe, will be the case with other poisons, and I maintain that the chances of detection are infinitely augmented, not diminished, by the improvements of science. I need not touch on public executions, since they do not enter into the question whether or not the punishment of death ought to be retained. The objection that executions are vindictive, retaliatory, and revengeful, if it has any force, applies equally to every other mode of punishment. How is there more of a retaliatory spirit evinced in putting to death a man who has taken away the life of a fellow-creature than in immuring him in a prison for life? My hon. Friend himself says the latter is the severer punishment of the two. If that be so, according to his own argument his substitute for the punishment of death must be more revengeful. My hon. Friend has, in my opinion, adduced nothing from the example of other countries that should prevail upon us to depart from our established law. I believe that death

is the punishment which men most dread, and that it is the right and the bounden duty of the State to inflict it for wilful and deliberate murder. On these grounds I hope the House will not accede to this Motion.

MR. LIDDELL said, that the hon. Member for Dumfries had urged as a strong reason, in favour of his Motion for a Committee, the difficulty of bringing public opinion to bear upon the question—that was to say, unanimously; but where was the country in which free discussion existed to such an extent, and where could public opinion be brought to bear upon any question by means of an unshackled press, more powerfully than here? The hon. Member seemed to have confounded public opinion with private judgment, and not to have allowed the weight to which they were entitled to the opinions of our lawgivers, and to the customs and usages of the country in reference to this question. Now, Judge Blackstone, a great authority upon this subject, said, that when the question arose whether death might be lawfully inflicted, the wisdom of the law had to decide it, and that to this public judgment or decision all private judgment must submit, or else there was an end to the first principles of all society and government. The *onus probandi* rested on the assailants of the existing law, who were bound to show that some other mode of punishment than death would operate as a greater preventive of murder. Those who were in favour of the abolition of capital punishment did so upon the ground that statistics proved that it did not act as a preventive of crime. But the House should consider, in regard to these statistics, how many things acted upon the sources and causes of crime. The circumstances of a county, its state in any particular year, the want of occupation for its inhabitants—all these things tended materially to affect the calendar of crime. Consequently, such statistics were not very safe or reliable guides for legislation upon the subject. After some further observations, which the continuous calls for a division rendered altogether inaudible, the hon. Gentleman concluded by stating that he should vote against the Motion.

MR. BROTHERTON said, he could not allow the debate to close without offering his tribute of thanks to his hon. Friend the Member for Dumfries for bringing this subject again under the consideration of the House. The question was a most important one, and although it might not be

popular in that House, he had no hesitation in avowing it as his conscientious opinion that capital punishments were contrary alike to the law of God, the spirit of the Christian religion, and to sound policy. The object of punishment must be either to reform the criminal, make reparation to society for the injury done, or to deter others from the commission of crime, by the example afforded. It could easily be shown that capital punishment did not produce any such results. It was recorded as a fact that out of 167 persons who had been sentenced to death, 164 had witnessed executions. Formerly, men were hanged for forgery and many other minor offences. The improvement in public opinion on this subject might be illustrated by a case that occurred in the year 1814, when a man was executed at Ohelmsford, in Essex, for cutting down a cherry-tree. It was reported that the Judge on that trial observed, that a man who would cut down a tree maliciously, would not hesitate to kill a man. No Judge at this day would utter such a sentiment. He trusted that public opinion would improve still further, until the punishment of death was finally abolished. In his opinion it was of the greatest importance that the laws and institutions of a country should cherish in the minds of the people a feeling of the sacredness of human life, and he believed that in proportion as capital punishments had been abolished public feeling had been improved. The hon. Gentleman the Member for West Surrey made no allowance for the improved spirit of the age, and according to his doctrine, burning, hanging, and gibbeting alive were to be sanctioned because they had been practised in former times. The hon. Member says, the scriptural command, "Whoso sheddeth man's blood by man shall his blood be shed," is in his opinion as plain as words can make it. He (Mr. Brotherton) had the best authority for declaring that that text was not a command but simply a declaration of the principle of retributive justice. That it was no more to be taken as a justification of the punishment of death than the words of our Saviour, when he said, "He that takes the sword will perish by the sword," or "With what measure ye mete to others it will be measured to you again." If the text were to be taken in the sense in which it was commonly understood, one murder would lead directly to another, and in that case where was blood-shedding to end? He believed that if he had the opportunity he could show that the text of the Old

Testament, on which the advocates of capital punishment relied, might be very differently interpreted. The same God gave the laws of the Old Testament that gave the laws of the New; and he would not contradict himself, he would not say, "Thou shalt not kill," and afterwards ordain that the disobedient child, the Sabbath-breaker, or, if an ox killed a man the owner should be put to death. "Putting to death" could not mean in Scripture the taking of the natural life; in many cases it meant excommunication. The crimes which were formerly punished by death, and which are no longer so punished have not increased, but decreased, since that punishment was abolished, and he believed that there was a growing public opinion, that crime diminished in proportion to the mildness of the laws. The State had power over the civil, but it had no right to take the natural life. Man had not the right to destroy his own life, and he had no right to delegate that power to the State. Believing that many important facts might be brought before a Select Committee proving that public executions were demoralising by their example, and did not deter from crime, he should cordially support the Motion of his hon. Friend the Member for Dumfries.

MR. WARNER said, he must complain that the right hon. Baronet, the Home Secretary, had misrepresented the Motion of his hon. Friend (Mr. W. Ewart). He treated it as if it had been for the total and immediate abolition of capital punishment. If this had been its object, he for one could never have given it his support. He did not believe that the punishment of death could be abolished in the present state of society in this country. He hoped the time might come when it would be still more seldom resorted to, or perhaps even abolished altogether. In the meantime it was most desirable to consider of the means which were in our power to provide a substitute in secondary punishments. At present there was no certainty in our secondary punishments. We must find means to overcome the difficulties connected with transportation. We must be prepared to provide a system of severe imprisonment. We might not find it necessary to adopt imprisonment for life with periodical corporal punishment, though he believed that had been tried with success in some countries. But we must, at least, introduce solitary confinement for life, without any hope of pardon. These were important questions for a Committee

Mr. Brotherton

to consider. Perhaps they might also devise some improvement in the manner of capital punishments, as long as we were compelled to continue them. He did not speak of private execution. No one, he believed, had ever recommended private execution. What had been often proposed here, and had been tried in some States of America, was executions within the walls of the prison, taking place, not privately, but before a numerous jury of witnesses. For these reasons he would support the Motion. He was sorry that the theological question had been introduced into the debate. There was little force in the arguments from it on either side. He maintained, that those who possessed the Sovereign power in every country, be they kings or people, had the power of life and death delegated to them by Providence. They were bound to make such laws as they believed would best secure the great interests of the State, and they were responsible only to God and to their own consciences. As a member of the Legislature of this country, he would never consent to abdicate the right and the responsibility which belonged to it. If they did this, they would deserve to lose their place among the nations, and the high character they held for the justice of the laws, and the uprightness of their administration. But there was room for inquiry, how far these laws could be improved, and with that view he should give his vote for the Motion of his hon. Friend.

Motion made and Question put, "That a Select Committee be appointed to inquire into the operation of the Law imposing the Punishment of Death."

The House divided: for the Motion :—
Ayes 64; Noes 158: Majority 94.

List of the AYES.

Adair, H. E.	Ferguson, J.
Alcock, T.	FitzGerald, Sir J.
Barnes, T.	Forster, C.
Bell, J.	Fox, W. J.
Biggs, W.	Gibson, rt. hon. T. M.
Bignold, Sir S.	Greene, J.
Blakemore, T. W. B.	Headlam, T. E.
Brotherton, J.	Heywood, J.
Brown, W.	Hindley, C.
Chambers, T.	Holland, E.
Clifford, H. M.	Hutchins, E. J.
Cogan, W. H. F.	Hutt, W.
Cowan, C.	Ingham, R.
Crossley, F.	Jackson, W.
Currie, R.	Kelly, Sir F.
De Vere, S. E.	Kennedy, T.
Duncan, G.	Kershaw, J.
Ewart, J. C.	Langton, H. G.
Fagan, W.	Laslett, W.

Lee, W.
M'Mahon, P.
Maguire, J. F.
Meagher, T.
Miall, E.
Milligan, R.
Michell, W.
Mowatt, F.
Muntz, G. F.
Pechell, Sir G. B.
Pellatt, A.
Phillimore, J. G.
Pilkington, J.
Raynham, Visct.
Richardson, J. J.

Robartes, T. J. A.
Scholefield, W.
Scobell, Capt.
Smith, J. B.
Thompson, G.
Thornely, T.
Tite, W.
Walmsley, Sir J.
Warner, E.
Whitbread, S.
Williams, W.

TELLERS.

Ewart, W.
Hadfield, G.

List of the NOES.

Acland, Sir T. D.	Floyer, J.
Agnew, Sir A.	Fortescue, C. S.
Bailey, Sir J.	Freestun, Col.
Baillie, H. J.	Gallwey, Sir W. P.
Baines, rt. hon. M. T.	Gladstone, rt. hon. W.
Ball, E.	Gladstone, Capt.
Baring, rt. hn. Sir F. T.	Glyn, G. C.
Baring, T.	Gower, hon. F. L.
Barrow, W. H.	Grace, O. D. J.
Baxter, W. E.	Graham, rt. hon. Sir J.
Beaumont, W. B.	Greenall, G.
Beckett, W. F.	Greene, T.
Bellew, T. A.	Gregson, S.
Berkeley, hon. H. F.	Grenfell, C. W.
Berkeley, F. W. F.	Grey, rt. hon. Sir G.
Black, A.	Grey, R. W.
Blackburn, P.	Gwyn, H.
Blandford, Marq. of	Hamilton, Lord C.
Bond, J. W. M'G.	Hamilton, G. A.
Bouverie, rt. hon. E. P.	Hankey, T.
Bramley-Moore, J.	Harcourt, Col.
Bramston, T. W.	Hastie, Archibald
Brand, hon. H.	Heneage, G. H.
Bruce, Major C.	Herbert, H. A.
Buckley, Gen.	Hotham, Lord
Burrell, Sir C. M.	Howard, hon. C. W. G.
Cardwell, rt. hon. E.	Hughes, H. G.
Castlerosse, Visct.	Johnstone, J.
Cockburn, Sir A. J. E.	Johnstone, Sir J.
Collier, R. P.	Kendall, N.
Conolly, T.	Kinnaird, hon. A. F.
Coote, Sir C. H.	Labouchere, rt. hon. H.
Corbally, M. E.	Lewis, rt. hon. Sir G. C.
Cowper, rt. hon. W. F.	Liddell, hon. H. G.
Davie, Sir H. R. F.	Lovaine, Lord
Davies, J. L.	Lowe, rt. hon. R.
Deedes, W.	Mackie, J.
Dering, Sir E.	Mackinnon, W. A.
Dillwyn, L. L.	MacGregor, James
Drummond, H.	M'Taggart, Sir J.
Duckworth, Sir J. T. B.	Malins, R.
Duff, G. S.	Martin, J.
Duff, J.	Martin, P. W.
Dungarvan, Visct.	Monck, Visct.
Dunlop, A. M.	Monsell, rt. hon. W.
Egerton, W. T.	Moore, G. H.
Egerton, E. C.	Morgan, O.
Esmonde, J.	Morris, D.
Evelyn, W. J.	Mowbray, J. R.
Farrer, J.	Murrough, J. P.
Fergus, J.	Napier, Sir C.
Ferguson, Sir R.	Newdegate, C. N.
Ferguson, Sir J.	Nisbet, R. P.
FitzGerald, J. D.	Northcote, Sir S. H.
Fitzgerald, W. R. S.	O'Brien, P.

O'Brien, Sir T.	Stracey, Sir H. J.
O'Brien, J.	Strutt, rt. hon. E.
Packer, C. W.	Swift, R.
Pakington, rt. hon. Sir J.	Tollemache, J.
Palmerston, Visct.	Tottenham, O.
Patten, Col. W.	Tyler, Sir G.
Peel, Gen.	Vance, J.
Pennant, hon. Col.	Vane, Lord II.
Percy, hon. J. W.	Vernon, G. E. H.
Perry, Sir T. E.	Vivian, H. H.
Ponsonby, hon. A. G. J.	Waddington, H. S.
Pritchard, J.	Walcott, Adm.
Pugh, D.	Walter, J.
Repton, G. W. J.	Whitmore, H.
Ridley, G.	Wilkinson, W. A.
Robertson, P. F.	Wilson, J.
Rushout, G.	Wood, rt. hon. Sir C.
Russell, F. C. H.	Woodd, B. T.
Rust, J.	Wyndham, Gen.
Sandon, Visct.	Wynn, Lieut. Col.
Seymour, H. D.	Wynne, W. W. E.
Shirley, E. P.	Wynne, rt. hon. J.
Smith, rt. hon. R. V.	
Smith, A.	TELLERS.
Smollett, A.	Hayter, rt. hon. W. G.
Spooner, R.	Mulgrave, Earl of

ADVANCEMENT OF SCIENCE.

MR. HEYWOOD said, he would beg to move for a Select Committee to inquire what public measures could be adopted to advance science, and improve the position of its cultivators. London was remarkable as a great centre of science, and was distinguished by many scientific societies. It was with great pleasure he was able to say that Government had given considerable attention to the subject. In the department of geology it had instituted a school, and it had formed a department of science and art, which was placed under the control of the President of the Council. Science was thus brought into connection with the general education of the country. There were schools already established, of which the most important was the School of Mines, in Jermyn Street, which was especially intended to instruct persons who had the control of mining operations. Many persons, he understood, had derived considerable benefit from an attendance at that excellent institution. The British Government had imitated, in this respect, the conduct of other Governments; for instance, that of Saxony, in which country great progress had been made in consequence of the establishment of a school of that nature at Freiberg. He considered that we were much indebted to the gentlemen who had been placed at the head of those departments, and, in particular, he might allude to the late Sir Henry De la Beche, and to Sir Roderick Murchison. Amongst other institutions of

this kind he might mention the Sailors' School at Poplar, in which instruction of a really practical kind was given to a number of industrious persons. Notwithstanding all this, however, there was in this country a great want of scientific instruction. He believed that at Magdalen College, Oxford, it had been recommended by the Oxford Commissioners, that a considerable portion of the college revenues should be set apart for the reward of science in scholarships and fellowships. He trusted that the same thing would be done at Cambridge. It was observed by Professor Liebig, when in this country, that England was remarkable for paying no attention to anything that had not a practical tendency, and that they neglected abstract science, while in Germany the contrary was the case. He considered that they had a most important duty to perform in endeavouring to promote science as much as possible. There was a scientific department which Government had established, in connection with the Board of Trade, under Captain Fitzroy, which was likely to prove exceedingly beneficial, and this was done in imitation of the American Government, who had a similar department under Captain Maury. It was to be wished that the various scientific societies of London should be collected in one spot, and Government had purchased Burlington House, which was to be devoted to that object. It was found that the British Museum, at the present time, was overflowing in various departments, and especially in natural history. They had recently placed Professor Owen over that department, and had given directions that he should give lectures. There was no lecture-room at the Museum, and he would have to give them in Jermyn Street; so that the specimens would have to be carried backwards and forwards. He believed that the British Museum was so overflowing that it would be to the public advantage that there should be a division of its stores, and he thought the natural history department might be removed to the west end of the town. He was exceedingly anxious that scientific men should have a better standing in the country. He did not think that their merits were appreciated by the Government or the public. He did not wish to depreciate others; he thought that, in case of war, Generals, and Admirals, and others who distinguished themselves ought to be honoured, but scientific men were not recognised in any way. He was very much in favour of some

Order of Merit being established for persons in civil departments. With a view to the advancement of science, he would also strongly urge the expediency of some alteration in the system of fees for taking out patents. At present a payment of £25 was required from any person taking out a new invention, and many individuals were not in a position to command that sum, and it appeared that the Attorney and Solicitor Generals received from that source a very large proportion of their salaries. The salaries of those officers ought to be paid out of the Consolidated Fund, and patentees ought to be charged a lower sum. He thought it very important that a Committee should be appointed to inquire into these points, and especially on the subject of education; and without further detaining the House, he would move for the appointment of a Committee on the subject of science.

MR. TITE seconded the Motion.

Motion made, and Question proposed—

“That a Select Committee be appointed to inquire what public measures can be adopted to advance Science, and improve the position of its cultivators.”

MR. MACKINNON said, he was as much inclined to give every possible encouragement to science as the hon. Gentleman who had brought forward this question, but he would ask the House to consider, before going to a division, what would be the result of assenting to it. According to an old and trite saying—*Poeta nascitur non fit*, and certainly the men who most distinguished themselves in any particular branch of scientific inquiry were not those upon whose education the largest sums had been expended. To be a scientific man there must be a talent for science. A large amount of property was devoted in this country to the encouragement of the science of mathematics. In the University of Cambridge especially, great mathematical attainments led to fellowships and to livings; but, although the University had produced Professor Airy, and two or three other individuals who were an honour to it from their scientific attainments, how few of its members had arrived at any eminence in mathematics, notwithstanding the advantages they would derive from proficiency in that science. If men of eminence in mathematics could be produced by bestowing wealth upon those who studied mathematics, the members of the University of Cambridge ought to be the first mathematicians of the world. But was that the case? No. The majority of them had

very little mathematical knowledge, and the science of mathematics was cultivated to a much greater extent in France than in this country. The conclusion he drew from these facts was, that science was not advanced by having a large amount of property devoted to its encouragement. The two greatest men of science whom this country had lately produced were neither of them members of the University. Neither Herschel, the discoverer of the *Georgium Sidus*, nor Brunel, the constructor of the Thames tunnel, belonged to the University of Cambridge, or to any great public seminary. They both attained eminence by their individual genius alone. Look at the two discoveries that had been lately made, and which had raised this nation to the highest position among the nations of the world—he meant the application of steam to railways, and the application of electricity to communication. To whom were those discoveries owing? To men of talent, to civil engineers, several of whom were Members of that House, but none of whom had been educated at public seminaries; but whose ability and genius had placed them in the distinguished station in which they now were. An application of the public funds for the purpose of the cultivation of science appeared to him to be perfectly useless. Give the public a general education, and those persons of genius who especially cultivated it rose at once to notoriety. Having been a member for twenty-five years of the Royal Society, he certainly did not think that, as a public body, it did much good either in promoting men of literature or of science. It appeared to him that the society consisted rather of men who had already become eminent in science or other attainments, and who had since become its members, than of men whose knowledge had been enlarged or whose discoveries in science had been stimulated by their becoming members of that society. There was nothing definite in the Motion, and it would require a great deal of discussion in Committee. There would be no harm in that, to be sure, but still, he objected to a proposed Vote to take money out of the public purse for the promotion of science.

THE CHANCELLOR OF THE EXCHEQUER: Sir, in the object of the Motion of the hon. Gentleman, which is to advance science and to improve the cultivation of it in this country, I feel certain that there is no Member of this House who does not cordially sympathise. But that is not

precisely the form in which it presents itself to our acceptance. The hon. Gentleman does not propose any specific measure for that object, but he asks us to assent to a Motion for a Select Committee to inquire what public measures can be adopted to advance science and to improve the position of its cultivators. Now, Sir, without explaining what is the nature of the measure he would recommend for the promotion of that object, he asks us to appoint a Committee, not to consider a plan which he is already prepared to submit, but to investigate generally the means that might be adopted to accomplish the object he has in view. In the course of his speech the hon. Gentleman went through a long list of institutions which have been established for the promotion of art and science. He, at the same time, showed that many of them were for the promotion of certain scientific purposes and for the facility of various national scientific objects. The hon. Gentleman might most truly have added that large sums of the public money had at different times been expended on scientific voyages and travels, and that in that manner the pursuits of science had been largely assisted. But the question really resolves itself into this—whether it would be possible for the Government, by a judicious application of the public money, to give assistance to the cultivation of science. It is true that science does not in general afford any remuneration to those who cultivate it. It is not, like many branches of literature and of art, a remunerative pursuit. But those who cultivate it do so for the love they have for science, and not for the sake of any pecuniary gain, as making that their chief and direct object. But I am not aware that it is possible by any application of the public money to increase the resources of science beyond what are already afforded by the patronage of the Royal Society and the numerous other public institutions that exist—such as the collections in all the various departments of zoology, mineralogy, and natural history, which are under the superintendence of Professor Owen, whose original researches and application in those departments, together with his development of the science of comparative anatomy, are known throughout the whole civilized world; the Botanic Gardens at Kew, where there is a collection of the rarest plants for the study of those who feel an interest in the science of botany; in short,

The Chancellor of the Exchequer

I am not aware that there is any want of the materials of science in any department, whether as regards the collections of specimens of scientific objects, or of works of scientific pursuits. If it can be shown that there are other things required for promoting the cultivation of science, then, as I understand the object of the hon. Member is not merely the diffusion of a knowledge of science, but the cultivation and improvement of it, I doubt, Sir, very much whether any practical benefit would arise from the appointment of a Committee without some more definite subject of inquiry than that which my hon. Friend proposes for its investigation. If he would come forward and say, "Here is a certain plan or certain suggestions for the advancement of science and the improvement of the position of its cultivators, which I submit to the House and wish to be made the subject of examination before a Select Committee"—that would be matter, no doubt, which might reasonably demand our assent; but when he merely proposes that a Committee should be appointed to consider whether something cannot be found for the promotion of an object which every one admits to be laudable and useful, I confess I entertain great doubts whether any advantage would arise from acceding to his Motion. I confess I rather agree in the speech of the hon. Member for Rye (Mr. Mackinnon) who spoke second in the debate, and which speech appeared to be delivered for the purpose of showing the impropriety of the Motion. Under these circumstances, I trust that my hon. Friend (Mr. Heywood) will not think it necessary to press this Motion to a division, until he is able to propose something definite to the House, but that he will consider his object sufficiently attained by the discussion that has taken place.

MR. TITE said, he wished the House should thoroughly understand the object of the Motion. It originated with the British Association for the Advancement of Science, who, when they met at Glasgow, expressed a strong desire that the question should be considered, and they had twice referred the subject to a Committee in the very terms of the Motion now before the House. On the part of the British Association he distinctly protested against the impression that money was the thing wanted; what was wanted was some means of advancing science. On this subject Professor Liebig observes.

in a letter to Professor Faraday, dated February, 1845, and cited in *Lyell's Travels in North America*—

"What struck me most in England was the perception that only those works that have a practical tendency awake attention and command respect; while the purely scientific, which possess far greater merit, are almost unknown. And yet the latter are the proper and true source from which the others flow. Practice alone can never lead to the discovery of a truth or a principle. In Germany it is quite the contrary. Here, in the eyes of scientific men, no value, or at least but a trifling one, is placed on the practical results. The enrichment of science is alone considered worthy of attention. I do not mean to say that this is better, for both nations the golden medium would certainly be a real good fortune."

The right hon. Gentleman the Chancellor of the Exchequer asked that some distinct plan should be suggested. Well, in the pamphlet which he held in his hand, which was the Report of the Parliamentary Committee of the British Association, the plan was distinctly shown. It required that a Board should be constituted, which Board should consist of all the leading men of science in this country, and before whom all plans should be brought that might be proposed for its advancement. This Report also stated that the Royal Society might not be in itself sufficient to answer the questions that constantly arose in connection with science, though it was well known that hitherto the Royal Society had met all the matters submitted to them to the satisfaction of the Government and the public; but still a larger body in the nature of a Council of Science was required to meet the increasing wants of science, and the main object of this Motion was to promote the establishment of such a body. Questions were continually occurring where such a body would be eminently useful. It could be established without any unreasonable expense; probably it would only require the mere expenses attached to keeping up the office of a paid secretary; and when so established, it should be the quarter to which every scientific question should be addressed, and to which the Government should have access at all moments. Mr. Tite, in conclusion, deprecated the idea that men of science were anxious for merely decorative distinctions. On this subject he entirely agreed with Dr. Faraday, who, after speaking of the distinctions, both national and foreign, which may even now be earned, writes—

"I cannot say that I have not valued such distinctions; on the contrary, I esteem them very

highly, but I do not think I have ever worked for or sought after them."

LORD STANLEY said, as it appeared to him that the House was not inclined to enter fully into the subject at present, his observations should be very brief. He believed that there was a great deal of force in the objection of the right hon. Baronet the Chancellor of the Exchequer, that the hon. Member who introduced this subject had no specific measure to propose. As far as his (Lord Stanley's) experience went, he did not believe that an inquiry could be well conducted by a Committee, unless there was some distinct proposition submitted for approval or rejection. If the House appointed a Committee merely on the principle of asking all the scientific men who could be collected together to give generally their opinions as to what was best to be done for science, a risk would be run of having a very vague and indefinite inquiry. There was also another objection to the appointment of a Committee now. The middle of June was at hand, and the Session was far advanced, but an inquiry, of the nature proposed by the hon. Member for North Lancashire, to be productive of any useful result, ought to be conducted, not in haste, but in a manner so that the whole country might have ample notice of it. Such being the case, he rather hoped that the hon. Member would not press his Motion at present, but take the opportunity of the coming recess, which doubtless was not far distant, to consult with the most eminent scientific men as to the exact nature of the measures which they might think desirable to be adopted, and submit them in a substantive Motion to the House. That was all he should have said but for one or two remarks which had been thrown out in the course of the debate, and which appeared to him to rest on misconception. He quite allowed that, in the case of the University of Cambridge, there could not be a better mathematical education, up to a certain point, than was there given. He agreed also in the remark, that in point of the practical application of science to mechanics and such matters this country equalled, and probably exceeded, other nations. But between these two points there lay a wide intermediate space, which was not touched. The mathematics of the University as taught were, generally speaking, pure science, and not applied science. Then it was said that a mathematical genius or an inventive genius could not be made by any

amount of patronage. That certainly was true; but he thought that there was some confusion as to the distinction between original invention and the diffusion and application of knowledge already existing. As regarded original invention, he allowed that they could not hope by the application of Government funds very greatly to increase the amount, though even in that respect there was probably a number of men qualified for scientific pursuits who were prevented from following them, principally in consequence of the want of means for obtaining that early education which was necessary. But invention was one thing, and the diffusion and application of knowledge already attained another.

VISCOUNT PALMERSTON: I am sure, Sir, the House will believe that any Government must be anxious to promote the diffusion and advancement of science, because that is an object so eminently connected with the best interests of a country—its intellectual progress, its material prosperity, and its commercial advancement—that no man who had found his way to high office in the State could be insensible to the advantages derived from the furtherance of such an object. The difficulty, however, lies in determining how that advancement of science is to be promoted, and I confess I do not think that the appointment of such a Committee as is now proposed by my hon. Friend (Mr. Heywood), particularly, as was suggested by the noble Lord opposite (Lord Stanley), at this late period of the Session, would be likely to lead to any such result. Two modes of accomplishing the desired end have been indicated in the course of this discussion. One, which was immediately disclaimed, is by a grant of money from the Government. It has been said that money is not wanted. But money is wanted in a certain way; that is to say, there are men of science zealously pursuing their investigations, but who have not the means of providing instruments or books from their own funds, and of properly following these researches. To men of that sort there is no doubt that any aid afforded through the Royal Society or other channels must prove of great service, and that the interests of science are thereby advanced. Then it has been suggested that a Board of scientific men should be established, to which questions connected with doubtful points of science might be referred. Now, I confess, Sir, that I have great doubts in my own mind of the advantage of corpo-

Lord Stanley

rate bodies with reference to intellectual improvements. If there is one department of intellect in which a corporate body might perhaps be more expedient than another, it would be in that of painting, because such a body might collect models, encourage the study of those models, provide lectures, and afford great advantage to those who practise the art. At the same time it is well known that there exists a diversity of opinion even upon that point, and I have great doubts whether the establishment of a Board of scientific persons would be productive of any great advantage in the promotion of science. A remark made by Professor Liebig has been quoted, to the effect that there is a great difference between England and Germany in this respect—namely, that while here we look to the practical application of science, in Germany they look more to the theoretical advancement of the principles of science. Well, but it seems to me, Sir, that this is a contrast more striking in words than in things, because, how are you to carry forward to any great extent, and to any successful results, the practical application of science if you do not make advances in the theory upon which that practice is to be founded? Practice without theory is only, in other words, theory without the grounds upon which theory should be founded; and, therefore, I think Professor Liebig's observations have not the force which my hon. Friends behind me would attribute to them. We are certainly an eminently practical nation, and we study the theory of science not with a view simply to abstract reasoning, but with a view to its application to the purposes of life and to the material interests of the country. I can only say that the Government will be at all times most thankful to any persons who can suggest to them anything within the competence of Government to propose or within the scope of Parliament to entertain, which can tend really to the advancement of science; but I think, as my hon. Friend has drawn the attention of Parliament to the subject by his speech, and has elicited the opinions which have been expressed in the course of this debate, he will, perhaps, think he has done enough, at all events in the present Session, and that it would not be advisable to press his Motion to a division, the result of which would be to involve the appearance of a difference of opinion where there really exists no difference at all.

MR. HEYWOOD, in reply, said, he did

not wish to divide the House upon the subject. He would have brought the question earlier before the House if an opportunity had offered itself. With regard, however, to the fees paid for obtaining patents, he must point out that the present system was a gross injustice to those individuals who followed scientific pursuits. That was a great impediment in the way of science. The great proportion of the fees paid went into the pockets of the Attorney and Solicitor Generals, and that might in some degree be the reason of the repeated attempts that had been made to count out the House that evening. He therefore hoped the salaries of those officers of the Crown would be put upon a better footing. He would now beg leave to withdraw his Motion, and would endeavour to bring it forward at an earlier period in the next Session.

Motion, by leave, *withdrawn*.

RIGHTS OF MARRIED WOMEN.

SIR ERSKINE PERRY said, he rose pursuant to notice, to call the attention of the House to the present state of the law with regard to the rights of married women. The subject was one which had excited considerable interest out of doors, and during the Session no less than seventy petitions had been presented complaining of the law as it affected the property of married women. Some of those petitions bore the signatures of the most thoughtful portion of society; the most marked one of the whole, perhaps, was the one which he presented before Easter, which was signed by 3,000 women, amongst whom were ladies who had made the present epoch remarkable in the annals of literature. It was only by accident that these ladies had entrusted him with the charge of presenting their views to the House. At the annual meeting of the Law Amendment Society, he spoke a few words on the subject of the rights of married women, and those observations coming to the notice of the memorialists, they determined to entrust their petition to his hands. Neither was it upon any sudden impulse, or without due meditation, that he had ventured to bring this question forward; for in the judicial situation which he had had the honour to hold, the question had often forced itself upon his mind. Having, then, had every opportunity for considering the question, and having most carefully looked into it, he could unhesitatingly pronounce his solemn conviction

that the law of England, as it affected the property of married women, was not only discreditable to the age, but that it demanded immediate alteration. By the old English law there could be no doubt that a wife succeeded on equal terms, with women of other nations, to the common property of her husband; she was entitled to one-third of the land, and one-third of the personal property. The decrees of the legal tribunals of the country, however, had abrogated this old English law, and deprived married women of their rights, while the husband had acquired the right from the same source, of dealing with the property of his wife just as he thought fit. The law had not been changed by any act of the Legislature, but solely by the decisions of the Judges. According to the dictum of the common law, a married woman had no right to personal property, but the Equity Courts recognised and acted upon the very opposite principle. Equity dealt with the personal property of a wife as though she were a single woman, but the common law held that it belonged to the husband. These diametrically opposite views of the law had arisen out of the decisions of different Judges, and the object of his bringing the question now before the House was to elicit an opinion as to which of the two principles was the sound one, as applicable to the case of married women. The rule which enabled families to settle property upon females before marriage was a correct one—it was founded in justice, and useful to society; but while the Legislature admitted the expediency of that law, it was equally incumbent upon them to reconcile the conflicting principles of law and equity which now prevailed with regard to the rights of married women. Now, to what did this conflict between the two classes of Courts tend? Why, to this, that those who are rich, and are able to apply to the Courts of Equity, have the means of defeating the stringent injustice of the common law. It tended, also, to show that for the rich there was one law, and for the poor another; but then that description was not strictly applicable. It was accurate to divide society into two classes of rich and poor. There were a great mass, perhaps the bulk, of the community who were happily removed above poverty, but who were not yet rich enough to go into the Courts of Equity, and this class had a strong claim upon the Legislature to be put in the same position with respect to the rights of property as

the more wealthy. It was not necessary to describe the existing state of common law with respect to the property of women, as the facts were familiar and of every-day occurrence. It was incumbent upon him, however, to prove that he was not insisting upon a theoretical grievance. He had been met by the objection that though the rule might present a hardship, yet practically it did neither mischief nor wrong, for where there was property, settlements beforehand might be made; where no property, settlements were unnecessary. It was, however, a serious practical grievance that he complained of; but the proofs of it would occupy too much time for him to go fully into them on the present occasion. Suffice it that there was one sort of case which had been reported to him in dozens ever since he had given notice of his intention to bring forward this subject; such, for instance, as that of a man who, leaving his wife, went to live in adultery, or, at all events, to lead a life of viciousness, and yet came in to claim her property. Instances innumerable had come to his knowledge where the wife, so abused and neglected, had been enabled by her industry to set up in business, and yet the brute of a man could, and did, come down upon her, after a few months' absence, and seize the proceeds of her labour under the sanction of the law. Now, he would ask hon. Members if it was fitting or just that they should any longer give the sanction of law to such iniquities? It certainly would not be difficult to frame a simple remedy. All that would be necessary would be to abolish the artificial rule of common law which had grown up, and to apply exactly the same principle to the property of the wife as was applied to the property of the husband. If no antenuptial contract was entered into, let the property of the wife remain in her own hands, and be disposed of at her death in the manner she might choose to direct. No doubt some further rules would have to be laid down with regard to the wife's obligation to the support of her children, and to contribute to the charges of the joint household. Some alteration, however, should be made with regard to the absurd laws relating to debts contracted by the wife before marriage—for absurd they undoubtedly were. A husband, after marriage, was not bound to pay any debt his wife might contract unless they were for such things as were suitable for her station in life; and yet he was responsible

Sir Erskine Perry

for any debts whatever that she might have contracted before marriage, although he might never have so much as dreamt of their existence. The difference of the two rules was itself enough to demonstrate that one of them was absurd, and, necessarily, that one of them ought to be altered. In conclusion, he ventured to appeal to his hon. and learned Friend the Attorney General, whom he knew to be a sound law reformer, to apply his mind to this subject, and to satisfy himself whether the conflict between common law and equity ought not to cease? If there must be any difference between the rights of husband and wife, the woman ought to be the favoured party, for she was the weaker, and assuredly stood more in need of the protection of the law. Let it not be supposed that he entertained any novel or theoretical notions on the position which women ought to occupy in society. The Resolutions he wished to propose were practical ones, and were intended to meet a real and practical grievance. No one could recognise more clearly than he the principle that the fitting place for woman was not to be engaged in a struggle with man for her bread. In nine cases out of ten the stronger sex must bear off the prize. He wished rather to see her enshrined in her own home, relieved from the carking cares of life, and enabled to make her home, however humble, a place of light and joy to her husband. But he could not overlook the fact, that in the existing state of society there were hundreds and thousands of women to whom no such description could apply. The laws of property pressed most grievously upon the interests of such, for those laws were the product of a rude age, and applied to a state of civilisation wholly different from our own, and ought to be altered or modified, now that so many women were found in the manufacturing districts and elsewhere earning the means of subsistence by their own labour. He might refer to the example of a nation in many respects resembling ourselves, and in jurisprudence immeasurably our superiors. Originally the Roman law treated women as mere chattels; but at a very early period that was altered, and where, in all antiquity, could they find women equal in every civil virtue to the matrons of the Roman Commonwealth? The Minister who, in the present day, would bring forward a comprehensive measure to extirpate the evils of which he complained would not only

effect a great social improvement, but would show himself fit to hold the helm of this country at the present critical period.

LORD STANLEY seconded the Motion.

Motion made, and Question proposed—

“That the rules of common law which give all the personal property of a woman in marriage, and all subsequently acquired property and earnings, to the husband, are unjust in principle and injurious in their operation.”

THE ATTORNEY GENERAL said, he cordially concurred in the Resolution of his hon. and learned Friend (Sir E. Perry). He quite agreed with him that the rules of the common law were injurious and unjust, that they were no longer applicable to the present state of society, that the rules acted upon by the Courts of Equity were much more consistent with the requirements of the age, and that the conflicting rules and principles of the two systems ought to be brought into unison. On the other hand, he would urge his hon. and learned Friend not to press the House to adopt his Resolution, for, if it were proposed to amend the law in a matter of this kind, it would be much better to proceed by introducing a Bill for that purpose than by calling on the House to discuss an abstract Resolution, which was, in fact, making it neither more nor less than a debating society. He had communicated with his noble Friend the Lord Chancellor upon the subject, and that noble Lord fully concurred with him in thinking that the time had come when the common law and equity ought, upon this point at all events, to be reconciled. The best attention of the legal authorities connected with the Government would, during the recess, be given to the subject, and he hoped that in the next Session of Parliament they should be able to introduce a more comprehensive and more satisfactory measure upon the subject. He might take that opportunity of saying that he should look upon such a measure, if it were passed, as only a part of a far greater one, for which the time had fully arrived, namely, the removal of the inconsistencies existing between common law and equity, by making the more rigid and stubborn maxims of the common law consistent with equity—that was, with reason, justice, and common sense. He hoped that his hon. and learned Friend would be satisfied with the assurance which he had given him, and would not press his Resolution.

Mr. MALINS said, he must deny that

the existing law placed any distinction between rich and poor, as the hon. and learned Member for Devonport (Sir E. Perry) seemed to suppose. The rule of Equity was a very simple one. Before marriage any woman might herself, and after marriage her friends might for her, take steps to secure her property to her separate use. The simplest instrument that could be devised would be quite sufficient for that purpose. If all that was desired by the hon. and learned Member was to assimilate the rules of Law and Equity, the proposal of the hon. and learned Gentleman should receive his cordial support; and for that purpose a very simple enactment, he apprehended, would suffice. If, however, the hon. and learned Gentleman wished to go further than that—if he wished to set up a separate establishment in every house—then he must resist it to the utmost extent of his power. If it was meant that henceforth the husband should have his establishment and the wife hers, he must regard the proposal as contrary not only to the law of England, but to the law of God. The law of England with regard to matrimony, as it at present stood, was founded upon the soundest principle—upon the principle, namely, that when a man and woman married they became one, and that their property ought not, therefore, to be separated. If a woman had not full confidence in a man let her refrain from marrying him; but still, as the law stood, she might, if she thought fit, protect herself. If during coverture property devolved upon her, it would no doubt become the property of her husband, and his receipt for it would be perfectly good. That was equally the rule of the Courts of Common Law as well as of Equity. But there was this difference between the two. If a woman had not complete confidence in her husband, and if he were a bankrupt, she might go to the Court of Equity and press it to assign her a settlement. The usual rule in such cases was to give her one half, but she might get three-fourths, or even the whole. Could anything be more reasonable than that? But it was said a married woman might set up in business for herself, and her husband would have a right to seize the fruits of her industry. If the husband was an assenting party, she might contract with him that *quoad* the business she should be as if she were still a *femme sole*. Of course, except under what was called an equitable settlement, no contract between

a husband and a wife during her coverture would be good as against his creditors. But did the hon. and learned Gentleman propose to give a wife power to set up in business in defiance of her husband, and to conduct it so as not to be liable for his debts. Certainly he (Mr. Malins) was not prepared to go so far as that. Indeed, there were some who thought that the whole equity doctrine of separate use was based upon an erroneous principle; and he was himself so impressed with the necessity of insisting on the perfect identity in all things of husband and wife, so convinced of the tendency of settlements to foster habits of extravagance on both sides, that, taking an enlarged view of the case, he was not satisfied that the doctrine in question had not proved detrimental to the best interests of society. He most solemnly protested against the new doctrine springing up, that it was for the interests of society that the wife should have separate interests from those of her husband. He believed that the interests of society involved quite a contrary principle, and he therefore hoped that the House would maintain the law in that respect as it now stood.

Mr. MUNTZ said, he would remind the hon. and learned Member for Wallingford that the necessity for an alteration of the law arose from the impossibility of a separation, under any circumstances whatever, in the case of a poor man and his wife. He himself knew several instances in which profligate husbands had squandered the property acquired by their wives to whose support they did not contribute one farthing, and he thought justice demanded that when the conduct of a man was such that his wife could not live with him, he should not be entitled to seize the fruits of her industry. Some alteration of the law was imperatively called for.

THE SOLICITOR GENERAL said, that the real state of the law had not been represented by the hon. and learned Member for Wallingford (Mr. Malins) with his usual accuracy; while, on the other hand, he could not congratulate the hon. and learned Member for Devonport (Sir E. Perry) on the clearness of his Resolution, with respect to the evil that required to be redressed. The Common Law, on an occasion of marriage, made a qualified gift of the property of the wife, present and future, to the husband. The qualification consisted in the property being given to the husband, subject to the obligation of main-

Mr. Malins

taining the wife; but the defect of the Common Law lay in the circumstance that it made no provision to compel the husband to perform that obligation. The true evil, therefore, was—and it was one that cried loudly for a remedy—that the husband, abandoning his duty, might totally neglect the obligation of maintaining his wife while possessing himself of all her property. In that respect, if the Resolution of the hon. and learned Member for Devonport had been properly worded, it would have contained a proposition highly deserving the attention of the House—not with a view to the introduction of a new principle into the law, as the hon. and learned Member for Wallingford supposed, but to enable the law to carry out its own humane principle, and to prevent that hardship which arose from the circumstance that, while the law imposed an obligation in words, it supplied no means by which that obligation could be enforced. There was another particular in which there was a difference between the rules of Common Law and those of Equity, and in which he thought it would be desirable that the Common Law should adopt the principles of Equity. In the case of property acquired by a wife during marriage, when there had been no settlement made for the fulfilment of the obligation imposed by the Common Law, Equity interposed when the property could be got only through the medium of the Court of Chancery, and refused to assist the husband in obtaining possession of the property, unless he consented to dedicate part of it to the maintenance of his wife. Such was one mode in which the Courts of Equity endeavoured to secure that which the Common Law required—the performance of the duty imposed upon the husband to provide for the support of the wife; and it well deserved consideration whether that rule should not be made universal and applied to all property, whether obtained by the husband through the medium of Courts of Equity or not. He confessed, at the same time, that, like his hon. and learned Friend the Member for Wallingford, he had some misgivings with regard to the extent to which Courts of Equity had carried the doctrine of separation of interests. He might mention, as an example, one case which occurred not long ago. On the occasion of a marriage a large property was settled for the separate maintenance of the wife. The wife ran away with an adulterer. The husband obtained a divorce *a vinculo*, and, although there were several children by the

marriage, all the property settled for the separate maintenance of the wife went to the adulterer, and not one farthing could be applied to the support of the children. He should not therefore desire to see that general assimilation which seemed to be suggested in the imperfectly worded Resolution of the hon. and learned Member for Devonport. But the subject deserved the most careful consideration, and when the Bill which at present engaged the attention of the other branch of the Legislature on the subject of marriage and divorce came down to that House, it might not be impossible to insert a provision securing to married women who were deserted by their husbands the right of enjoying in safety the fruits of their own industry. The question lay too much at the foundation of all our social interests, and was too closely connected with the very constitution of society itself, to be dealt with lightly, rashly, or by piecemeal. He trusted, therefore, that the hon. and learned Member for Devonport would accept the assurance given by his hon. and learned Friend the Attorney-General, that the subject would not escape attention, and, entertaining the hope that something might be done when the Marriage and Divorce Bill came down from the House of Lords, would withdraw his Resolution, which certainly was not framed in such a manner as to put the real question clearly and distinctly before the House.

MR. WHITESIDE said, he fully concurred with the hon. and learned Solicitor General in thinking that there was a loud call for an amendment of the law on the subject under discussion. He would venture to express a hope that somebody might appear with vigour and capacity to remedy an evil so much deplored. The discussion which had taken place that evening showed how important it would be to have a Minister of Justice capable of dealing with such questions, in order that Parliament might not always be deploring the existence of evils, but might be in a condition to apply speedy and practical remedies.

MR. J. G. PHILLIMORE said, he thought that some amendment was required in the law of divorce, but he trusted that the Legislature would maintain unbroken the ideality of interest between husband and wife. Nothing could surely be more frightful than to teach wives that their interests were on one side, and those of their husband on the other. He thought there were many matters in which we might usefully

follow the example of foreign nations; but, if there was one thing more essential than another which foreigners might learn of us, it was the relations which existed in this country between husband and wife. He fully agreed with the hon. and learned Gentleman (Mr. Malins) who thought that Equity had gone too far with the doctrine of separate uses; and when people talked of the sufferings which the law caused women, what could be more natural, what more desirable for women to know, than that, if they acted foolishly and contracted imprudent marriages, they must bear the consequences? The law of divorce, as it now stood, was a scandal to the country; and he did not anticipate any very decided amendment from the measure of the Lord Chancellor. What he would suggest was, that when a sentence of separation was pronounced, the same authority should pronounce a decision as to the wife's property. At present the evils of the law of divorce were most strikingly exemplified amongst the lower classes, especially in the case of bigamy. The measure before them was of a piecemeal character; and he thought the evil could only be met in the way proposed by the hon. and learned Gentleman the Attorney General.

MR. COLLIER said, that they could not adopt any other than piecemeal measures until there was some officer in this country in the nature of a Minister of Justice, charged with the duty of proposing and carrying out the necessary amendments in the law.

MR. W. J. FOX said, that the consolation which a Court of Equity was enabled to afford the wife for the injury and the privation to which she was often subjected at the hands of her husband was of a very cold description indeed. He had himself seen mention made within the last few weeks of two cases of a most distressing nature, in which the wives having been deserted by their husbands, and having been left families to support, had succeeded by their industry in accumulating a small sum of money, which had subsequently been squandered by the husbands, who had rejoined them, and who had in consequence reduced these poor creatures to a state of the utmost destitution. A hard case had also occurred a few days ago, in which a woman possessing a property of £400 or £500 a year had been married, and the entire of her property had gone to her husband's heir-at-law, leaving her penniless. The late celebrated Mrs. Siddons

had by the exercise of her great talents accumulated a large fortune; but she had been obliged to beg of her husband not to leave her dependent upon others by disposing of that fortune to her prejudice by his will. Hon. Members could not have failed to see in the public press frequent advertisements from husbands announcing that they would not be responsible for the debts which their wives might contract—a circumstance which, taken together with the cases to which he had before alluded, could not fail to show that the state of the law as affecting the relations of husband and wife was most unsatisfactory, and demanded amendment. It was, therefore, with pleasure that he had listened to the statement of the hon. and learned Attorney General to the effect that the Government would take the matter into their immediate consideration.

MR. T. CHAMBERS said, he thought that, whatever might be the number and pressure of the grievances complained of by his hon. and learned Friend (Sir E. Perry) they would bear no comparison to the mischiefs that would follow from the assertion of the vicious principle involved in the Resolution before the House. All the evils to which his hon. and learned Friend referred arose from a breach of the obligations of religion and morality in the married state; but the proposal now before the House would give the force of law to evils infinitely greater. No doubt the evils which now existed required remedy and ought to be attended to; but to introduce into every house in England the principle of separate rights, separate interests, and a separate legal existence between man and wife, was to nullify and destroy the law of marriage altogether, so far as regarded its sacredness and sanctity. The publication of such advertisements as "I will not be responsible for the debts of my wife" showed that it was not always a profligate and drunken husband who committed wrong, but that there were numerous instances in which a man's home was made wretched by the profligacy of a drunken wife. Evils without doubt existed on both sides, and they sprang from the breach of the laws of morality and religion; but the evils which would spring from the proposed alteration of the law would be far worse, for they would be the result of legislation. He thought the hon. and learned Solicitor General took a right view of the question, and he therefore trusted that he would be able to effect a sufficient remedy.

Mr. W. J. Fox

SIR ERSKINE PERRY said, he would have been delighted with the assurance of his hon. and learned Friend the Attorney General had it not been followed by the speech of the hon. and learned Gentleman the Solicitor General. He was afraid, looking at that speech, that years might elapse before a satisfactory marriage law would be carried out; but still he had such confidence in his hon. and learned Friend the Attorney General that he would withdraw his Resolution, and look forward to a speedy rectification of the evils which he had too feebly, perhaps, pointed out.

Motion, by leave, withdrawn.

POSTAGE LABELS.

MR. WHITESIDE said, he rose to move for the appointment of a Select Committee to inquire into the circumstances connected with the purchase by Government from Mr. Archer, of the machine and invention for perforating postage labels, and also with reference to the printing and gumming postage and receipt labels. He wished to point out that a few years ago Mr. Archer invented a machine for facilitating the separation of postage labels, an invention hon. Members could not but admit of great utility. Mr. Archer believing that the invention would be successful, applied to a public department with the object of effecting its sale. Such a transaction would doubtless have been arranged by mercantile men in a quarter of an hour, but unfortunately Mr. Archer had to deal with three great departments of the State—the Post Office, the Commissioners of Inland Revenue, and the Treasury. No one, as hon. Members must be well aware, who had anything useful to propose was received with favour by our public departments; if he had nothing but his ability to recommend him to their notice. A lengthened correspondence took place between Mr. Archer and the public departments referred to, and he (Mr. Whiteside) had been extremely amused by that correspondence, which with great ability and uncommon perseverance, had been carried on between the inventor and certain official functionaries for a series of years, it having been found utterly impossible, of course, to persuade them of the usefulness of the proposed machine. Eventually, through the intervention of Mr. Keogh, Secretary to the Board of Inland Revenue, an agreement was concluded to this effect:—

"The Commissioners of Inland Revenue agree with Mr. Archer for the purchase of two machines for separating postage labels, on condition that he is not to be repaid the cost of the same, or compensated for his invention, until the plan is brought into successful operation."

When the success of the invention had been demonstrated, Mr. Archer applied to the Board of Inland Revenue, and, after having bestowed three years' labour, and expended £1,500 in perfecting the machine, that department offered him £100 for his invention. Afterwards they made him another offer of £300; and, gradually increasing in their bids, the Treasury eventually offered the inventor £2,000. Now, after three years' labour and the expenditure he had incurred, Mr. Archer was stubborn and determined, but the public departments were inexorable. They knew they had to deal with a man who possessed no political influence, and who had nothing but his abilities to recommend him, and they therefore determined to persist in their injustice. At last the right hon. Member for the University of Oxford (Mr. Gladstone), became Chancellor of the Exchequer, and seeing that the invention would be useful to the country he followed up an offer which had been made by his predecessor to Mr. Archer of £300 a year, a share of the proceeds of the postage labels in proportion to the quantity issued, and a sum in hand. By offering Mr. Archer £4,000, and after some four or five years' negotiation, an arrangement was effected on the terms mentioned, which, according to the words of the agreement, related to postage labels only. Mr. Archer, however, foresaw that his invention would be useful also for perforating bankers' checks, and had, he (Mr. Whiteside) understood, entered into contracts with certain bankers in the city to apply his machines to that purpose, believing that his agreement with the Board of Inland Revenue extended only to the application of the invention to postage labels. Soon after Mr. Archer had effected his arrangement with the then Chancellor of the Exchequer (Mr. Gladstone) that right hon. Gentleman busied himself with the invention of fresh modes of taxing the community. The right hon. Gentleman hit on the ingenious expedient of introducing a penny receipt stamp. This novelty complicated a question already sufficiently confused. Mr. Archer's invention was made the subject of additional inquiries, and the gentleman to whom the

question was ultimately referred for decision recommended that an assignment of the patent right should be taken, and that the machine should be also used for the purpose of perforating the bankers' stamps. The Government then gave Mr. Archer to understand that a gentleman in the city had made experiments upon his machine, and that £500 had been expended in attempts to improve it, which sum they insisted upon deducting from the £4,000 agreed to be paid to Mr. Archer. In vain did Mr. Archer remonstrate. He was told once for all that before he received a shilling from the Government he must give a guarantee to pay the £500 to the gentleman in the city; and what aggravated the difficulties of his position was that the gentleman in question refused to accept the security, and declared that he must be paid in money—a demand with which Mr. Archer was unable to comply. About this time the gentleman who conducts the legal affairs of the Treasury began to interfere in the business, and gave it as his opinion that no licence to perforate bankers' stamps should be granted to Mr. Archer, and that the use of his patent for all purposes whatsoever should be transferred to the Treasury. In vain did Mr. Archer protest, remonstrate, resist, and threaten an appeal to Parliament. The Treasury, of course, were too strong for him. They got the assignment from him of his patent right and retain it to this day. They not only refused him a licence to perforate receipt stamps, but they also declined to allow him any additional consideration for the services of his machine in that respect. Nothing, he would appeal to the House, could be more illiberal, more ungenerous, than such treatment. But their injustice did not end there. They would not allow him to superintend the operations which his tender originally contemplated—those of engraving, printing, and gumming, as well as of perforating—but they committed all those matters to other hands, and the consequence was, that the texture of the postage labels was coarse, their colour bad, there was much difficulty in separating them, and, in a word, the English public had the worst article of the kind in all Europe at the very dearest price. Had the arrangements been confided to Mr. Archer, the person best qualified to superintend the working of his own invention, the postage labels would have been struck off by a process of surface-printing similar to that used in the

Bank of England, and a superior description of gum would have been employed, instead of the filthy poisonous stuff that was now provided for us by the parental kindness of the Treasury. But the health of the people as well as the claims of justice were disregarded to facilitate the perpetration of a disreputable little job. The consequence was that an article was produced which was a reproach to art and a disgrace to the country. He would leave it to the candid decision of the hon. Gentleman the Secretary for the Treasury to say, whether the postage label used in England was not greatly inferior to anything of the same kind in France, or, indeed, in any other country of the world. In order to understand the unfair manner in which Mr. Archer had been treated it would be necessary to refer to the correspondence that had taken place between him and the Treasury. On the 30th of April, 1851, he wrote to Mr. Keogh to say that he was willing to undertake—

“In conjunction with Mr. Branston, who for many years held the appointment of engraver to the late Commissioners of Excise, to engrave, print, gum, and perforate the sheets of postage labels, and to find and prepare all the necessary printing machinery, plates, and apparatus, and also all perforating machines that may be required (except the present) for the sum of 4½d. for every 1,000 stamps.”

As this proposal, however, referred to a mode of engraving and printing materially differing from the one then in use, Mr. Archer proceeded to make some remarks in reference to the comparative merits of the two systems, and having done so, concluded his letter by stating that should—

“The Commissioners deem it advisable not to change the present mode of engraving and printing the labels, he was prepared to undertake to engrave and print the same according to the existing plan, and also to gum and perforate them, and to find all the necessary printing machinery and plates, with all the usual guarantees required, for the sum of 5d. for every 1,000 stamps; so that, even according to the latter proposal, the Commissioners would be enabled to save the Post-office £1,500 per annum.”

The Board of Inland Revenue had this letter in their hands on the 16th May, and mark how they proceeded. Instead of putting themselves in communication with Mr. Archer, or offering the contract to public competition, they took a most disingenuous course, for on that very day the solicitor to the “Board,” wrote to Bacon and Petch, their old engravers, stating that a tender had been made to print the labels at 5d. (which was not true,

Mr. Whiteside

for the tender was to print, perforate, and gum them at that price) per 1,000, and asking if they would abate their price from 7d. to 6d. per 1,000. Of course they assented; and without any notice to Mr. Archer, the contract was concluded with them for five years to do the printing at 6d. per 1,000, he having tendered to do the printing, perforating, and gumming, at 5d. per 1,000. The Committee who had sat upon the subject, and of which the hon. Member for Birmingham (Mr. Muntz) was a member, had expressed their opinion upon this transaction. They had passed a Resolution—

“That the tender having been made by Mr. Archer to print, perforate and paste the labels at 5d. per 1,000, a smaller sum than had been paid for the printing alone, it was inexpedient to communicate the terms of the tender to the former contractors.”

“Inexpedient!”—a delicate expression certainly. He would beg to translate it freely, liberally, and to stigmatise such conduct as unjust and iniquitous. The Committee further reported that, in renewing the contract with Messrs. Bacon and Petch, it was not necessary, neither was it for the interest or the convenience of the public, that it should have been made for five years. A discussion arose in the Committee as to the best mode of printing the postage labels, and three of the most scientific witnesses declared that the system of surface printing must ultimately prevail. Yet the Government alleged that they could not help themselves, being bound by their contract with Messrs. Bacon and Petch for a period of five years, and thus a clear profit actually exceeding the salary allowed to the Prime Minister, or more than £5,000 a year, was secured to that firm! The contract entered into with Messrs. Bacon and Petch having been printed by order of the House, a copy of it was submitted by Mr. Archer to Mr. V. Williams, whose legal opinion, together with that of another eminent barrister, was, that the compact was not binding on the Treasury for five years. Still the extravagant arrangement went on, and enormous profits were pocketed by the contractors, because competition was precluded. The particulars of this job were not yet exhausted—more still remained. Mr. Archer, persevering in his views with regard to surface-printing, called on Mr. E. Hill, a secretary to one of the Boards, and explained the facts to him. But Mr. E. Hill was so slow to see the super-

riority of Mr. Archer's process, that he did not see it until the hon. Member for Peterborough (Mr. Hankey) had written to him, stating that the Bank of England had adopted it, and would before long print all their notes by it, adding—"I cannot understand why the process is not made use of for the postage labels, since ours are by far the most clumsily and badly executed." Well, two or three years after the "Board" had received Mr. Archer's tender to do the whole of the labels upon the superior process, this Mr. E. Hill began to think of securing it for the Government. Admitting, however, for the sake of argument, that the Treasury were restricted by the contract for five years, as far as concerned the postage labels, yet they might have subjected the receipt labels to the open competition of the trade. Now, Mr. Hill was the partner of Mr. Delarue, the stationer, in a patent for cutting envelopes; but, obtaining an excellent Government appointment, he immediately sold his right to the patent, and managed to give to his former co-partner, at the modest price of 7d. per 1,000, the contract which an expert man offered to execute by a superior process at 2½d. per 1,000. Perhaps a more monstrous instance of jobbery had never occurred. Why were they to have a bad envelope, made of paper so thin that the writing may be seen through it, merely that a favour might be conferred upon some person who was perhaps a friend of one of the department? The receipt stamp, he admitted, was far better than the clumsy article of which he had been complaining. Why, he asked as a man of business, were they to have a good receipt stamp and a bad postage label? The answer would doubtless be, that they must fulfil the terms of the contract; and the system would be continued unless the House of Commons granted the inquiry he now demanded. The respectable stationers in the city had no confidence in the contract system pursued by the Government, which they averred was not carried out openly by public advertisement. In the Estimates which had been laid before the House during the present year, the total sum required for postage labels was £29,000, of which £8,000 was for the manufacture of a new postage stamp for the conveyance of newspapers. He supposed the latter sum was for the manufacture of a die for the impression of stamps upon newspapers, and, if so, a

very handsome article of that description he was certain could be procured for £50. Who, then, had got the £8,000? He wanted to find out the whole truth if he could, although he would not say that he should succeed in doing so; but, at all events, if the Committee asked for were granted, he would rely upon the good sense and feeling of the Members who composed it to assist him. All the justice Mr. Archer had received had been from that House, and not from the departments. At first, the departments squeezed from that gentleman the entire right to his patent; then refused him a licence; then deducted £500 from the £4,000 they offered him, ousted him from the contract, and yet made good use of his principle for receipt labels; and then gave another person nearly three times the amount for which he was willing to give them a good and satisfactory article. He (Mr. Whiteside) would like to inquire into those matters, and doubted not but that some interesting communication between some persons would transpire, the result of which was that one party obtained a contract which was worth something more than the salary of the right hon. Gentleman the Chancellor of the Exchequer. He had brought forward the subject upon no grounds of personal or political nature, but simply relying upon the good sense of the House to do justice to an injured and an ill-used man, and he had no doubt but it would give the whole case a fair consideration, and after hearing what the hon. Secretary for the Treasury had to say in reply, would, he hoped, grant him the Committee he moved for. He did not mean to say that the hon. Gentleman the Secretary to the Treasury was a party to the job, but he hoped that hon. Gentleman would not attempt to defend that which was indefensible. If, however, the hon. Gentleman should succeed in proving to a Committee that the departments were free from blame, he (Mr. Whiteside) would be the first to admit the validity of the defence, and to compliment the hon. Gentleman upon his skill in proving it.

MR. WILSON said, that though the hon. and learned Member had exonerated him from personal blame in respect of many of the transactions to which he had alluded, he had not gone on to say who had represented the Government of the day in the Committee which had sat upon this subject, and who consequently were really responsible for the Report of that Com-

mittee. That Committee sat in April and May, 1852, and was attended by the Marquess of Chandos, as the representative of the Government of Lord Derby, and than whom a more painstaking Member never sat upon a Committee; therefore, the parties really responsible for that Report were Lord Derby's Government. He (Mr. Wilson) could not pretend to be cognisant of all matters attendant upon the subject, but he would remind the House that they had been brought before the Committee, which had, in consequence, fully investigated the subject. Hence, what had taken place before the Committee sat was hardly a question at the present moment. The Committee had expressed their opinion after due consideration, and it was therefore not to be expected that after four years had elapsed the House would grant a Committee again to investigate the subject. But, in truth, the most important part of the hon. and learned Gentleman's speech was that in which he referred to what had taken place since the Committee reported; the other facts had only been introduced in order that he might heighten, like a skilful advocate, that which was to come. Now he (Mr. Wilson) would take the liberty of informing the House what had actually taken place in consequence of the recommendation of the Committee. The colleagues of the hon. and learned Gentleman (Mr. Whiteside) in pursuance of that Report, entered into correspondence with Mr. Archer. They made him such offers as in accordance with their duty to the country they thought right, but those offers were not agreeable to or at all events did not meet Mr. Archer's views. In the year 1853, as the hon. and learned Gentleman had stated, his (Mr. Wilson's) right hon. Friend the Member for the University of Oxford (Mr. Gladstone) then Chancellor of the Exchequer, received a deputation, urging upon him the expediency of purchasing the patent of Mr. Archer. He should state to the House that the highest and most liberal offer of Lord Derby's Government had been £2,000, coupled with some offer of a commission upon the sale of postage stamps. On the 24th of May, 1853, he (Mr. Wilson) found that he made a memorandum, stating that the Chancellor of the Exchequer having intimated his willingness to purchase the patent in question for £4,000, the Lords of the Treasury were pleased to request their solicitor to place himself in communication with Mr. Archer, and to

Mr. Wilson

take steps in order to obtain a legal assignment of the patent to Colonel Maberly, in trust for the public. In consequence of this the solicitor to the Treasury put himself into communication with Mr. Archer, and stated the conditions of the bargain to him. Mr. Archer wished, however, although the patent was to be assigned, that there should be an understanding that he might apply to Parliament for further compensation. The Treasury (acting upon the advice of their solicitor) replied, that although they could not prevent Mr. Archer from appealing to Parliament, they did not think it right to enter into any such understanding as he desired. Mr. Archer also made known to the Treasury that there were several incumbrances in existence affecting his rights, which he had incurred in the prosecution of his inventions. The hon. and learned Gentleman the Member for Enniskillen made much of this, and seemed to think that the Treasury had taken the part of these incumbrances. But the fact was, that there was a legal mortgage affecting Mr. Archer's patent, and until that was discharged the interest in the invention could not be properly vested in the Government. On the 20th June, Mr. Archer having consented to assign the patent without condition, the Solicitor to the Treasury wrote to the Secretary of the Treasury, stating that fact, and enclosing the assignment, the original letters, and the mortgage to which he had already referred, and giving instructions with regard to the closing of the transaction. Those instructions were ultimately acted upon, and the transaction closed. In the course of the negotiation which took place, Mr. Archer at one time expressed a desire to limit the grant to the Government to the right of perforating postage labels only. That, however, the Chancellor of the Exchequer did not think it right to accede to, for he considered that the purchase of the patent should be for the benefit of the public generally, so that while the Government availed themselves of it for the purpose of perforating postage stamps, it might be equally available to the public for all other purposes. The hon. and learned Gentleman had also made reference to the subject of surface printing, now a matter not very fit for public discussion. Where they were collecting upwards of £2,000,000 of money in separate pennies, security was the first consideration. Three or four years ago, the Government were induced by repre-

sentations made to them to attach great importance to the new discovery of surface printing, but with the knowledge acquired by experiments they were disposed to consider the old style by far the safest. The transactions in 1850 and 1851, having already been inquired into by a Select Committee, could not properly be made the subject of another investigation, unless it could be shown that they bore on the purchase of the patent right. He thought he had proved that the purchase was altogether independent of previous transactions, and up to the present time he had never heard of any complaint showing that Mr. Archer was not satisfied with the arrangement. He thought that the House would not assent to the Motion of the hon. and learned Member.

Mr. GREGAN said, that the whole of the case could be condensed into a very small compass. A man of ability had invented a machine of great usefulness to the public—so useful, indeed, that the Government had considered it necessary to purchase the patent. Now, the object of the Government at the time was to perforate postage stamps, because the perforation of cheques and bankers' drafts was not then thought of. Mr. Archer, however, had ulterior objects in view, and wished to reserve a portion of his right. It was true that Mr. Greenwood, of the Treasury, told him that he did not see how the Government could buy the patent, and yet allow him a right to sell it to bankers; but what Mr. Archer wanted was, that a power should be given him of licensing bankers and others who might wish to use the patent for the purposes alluded to. On that point the agreement was not specific; but when Mr. Archer afterwards wished to exercise such a power, the Government refused to allow him to do so. Considering the enormous amount of property which might be saved to the public were the contracts re-adjusted, and considering that the existing contracts were about shortly to expire, he thought the House would be acting with manifest neglect of what was due to the country if it refused to grant the Committee.

Mr. LLOYD DAVIES said, he could not help thinking that there was some want of grace on the part of the inventor of the patent in thus coming forward to make a claim upon the Government, after he had unreservedly sold his invention to them for a sum of £4,000. There could be no doubt that the gentleman in ques-

tion had transferred his machine to the Government, and parted with his entire interest in it; and with what grace could he now demand additional compensation, because he found his invention was applicable to other purposes? He, therefore, could not support the Motion on the ground alleged. At the same time he thought some explanation was due on the part of the Government as to their paying 7½d. for what they might get for 2½d. The part of the Motion directed to that point should certainly have his support.

Mr. MUNTZ said, there was one portion of the subject that ought to be borne in mind, that, however Government had settled with Mr. Archer, they had not settled with him in good faith. They purchased the machinery and patent right merely for the perforation of postage-stamps. That, however, was the smallest part of the question; the largest was, how had the public been dealt with in the matter? The copper-plate process admitted of forgery, and in a conversation which he had had twelve months ago with the Secretary of the Treasury, that hon. Gentleman informed him that they were going to do away with it, and adopt the surface printing in regard to postage-stamps. There was also this proof that they considered the surface printing so superior, that they had adopted it in the printing of the receipt stamps. He was at a loss to understand the vote of £8,000 for a stamp for newspapers, and thought the whole matter called for the investigation of a Committee.

THE CHANCELLOR OF THE EXCHEQUER said, the question which the hon. and learned Gentleman (Mr. Whiteside) had raised seemed to divide itself under three heads, the first of which had relation to the remuneration allowed to Mr. Archer for his patent. Now the explanation which his hon. Friend (Mr. Wilson) had given was perfectly conclusive upon that part of the question. The negotiations with Mr. Archer were spread over a considerable number of years, and he himself, when Secretary to the Treasury, had communicated to that gentleman the offer of what was deemed by the then Government an adequate price for his patent, which certainly showed some ingenuity; nevertheless, in the execution of the idea, Mr. Archer, not having sufficient knowledge of mechanics, was greatly assisted by a gentleman in one of the public offices, who enabled him to carry out his views

more effectually. How, therefore, they could think of appointing a Committee, with a view of handing over a sum of £6,000 or £8,000, or whatever sum the liberality of Gentlemen opposite might fix upon, surpassed his comprehension to conceive. He was of opinion that the money offered by the Government was a full equivalent for any claim Mr. Archer might have had upon the Government. That gentleman, however, refused to accept the offer; the question was therefore referred to a Select Committee. That Committee recommended a further negotiation with Mr. Archer, which was made, and which ended in an offer of the most liberal terms. Mr. Archer, with a full knowledge of all the circumstances, accepted that offer, without any reservation whatever. The money was paid and received; and he (the Chancellor of the Exchequer) could not conceive what possible ground, at this distant period of time, there could be for reopening these transactions, or of inducing Mr. Archer to make any additional demand, on the ground that he had been underpaid. With regard to the contract with Messrs. Bacon and Petch, he had no very clear recollection of the proceedings in the year 1852-53; still the subject was investigated in that year. And the Committee concluded its Report with declaring that they were of opinion that in the renewal of the contract it was not necessary to make it for five years, as neither the interests nor convenience of the public were thereby secured. With respect to the question of surface printing and copper-plate printing, the question had been but recently investigated at the Treasury, in concert with scientific persons; and they were of opinion that, in order to secure the Treasury against forgery, it was desirable to have recourse to copper-plate in preference to surface printing. Another point adverted to had been the question with regard to the contract with Mr. Delarue as to surface printing, it being stated that the price at which the contract had been completed was excessive. Now, he had no knowledge upon the subject, not having heard the question raised before. He would, therefore, only content himself with saying that, nevertheless, he did not think they ought to delegate to Select Committees the duty of making Government contracts. He would cause the case to be investigated, and see whether there were any grounds for the statement of the hon. and learned Member.

The Chancellor of the Exchequer

MR. WHITESIDE, in reply, said that the complaint amongst the trade was, that they never got the chance of offering for this contract; but that it was given by the Government to Mr. Delarue, because he was in some way connected with people in office. He therefore submitted that it was a clear case for a Committee, and he hoped that the House would declare it to be so.

MR. BELL said, that there was no explanation given of the £8,000.

MR. WILSON said, with regard to the claim for £500 which had been alluded to, if not an actual mortgage, it was considered by the solicitor to the Treasury a valid charge, and therefore one which it was necessary to take into account in purchasing the machine. The £8,000 included in the Votes of this year was for the introduction of adhesive stamps instead of impressed stamps for newspapers.

Motion made, and Question put—

“That a Select Committee be appointed, to inquire into the circumstances of the purchase of the Machine and Invention for perforating Postage Labels by the Government from Mr. Archer, the inventor; and also into the circumstances under which the existing agreements between the Government and the Contractors for gumming and printing the Postage and Receipt Labels were made.”

The House divided :—Ayes 39; Noes 57: Majority 18.

MR. BROTHERTON said, he should now move the adjournment of the House. It was nearly midnight; the House had only adjourned at two o'clock that morning, they had to meet at noon to-morrow, and he thought it only right that they should not proceed further with the business on the paper.

SIR GEORGE GREY said, there were some notices on the paper which might be disposed of without any discussion, and he hoped the hon. Gentleman would not press his Motion, on the understanding that only unopposed notices should be proceeded with.

MR. BROTHERTON said, on that condition he would withdraw his Motion.

Motion, by leave, withdrawn.

FISHERIES (IRELAND).

MR. M'MAHON rose, to move for a Select Committee to investigate the operation of the recent Statutes relating to the Fisheries of Ireland.

SIR GEORGE GREY said, if the hon. and learned Gentleman persevered in going

on with this Motion, he should accept the proposition for adjournment.

MR. BROTHERTON said, he must remind the House of the condition upon which he had just withdrawn his Motion.

MR. M'MAHON said that, as the Motion for adjournment had been withdrawn, and he was now in possession of the House, the hon. Gentleman was out of order in interrupting him.

MR. SPEAKER: The Motion for adjournment not having been pressed, the hon. and learned Gentleman has an abstract right to go on with his Motion, but I must remind him that that was not the understanding.

MR. M'MAHON said, he had not been a party to the arrangement, and must deny that he was bound by it. It was a very early hour for the transaction of Irish business in the House of Commons.

Notice taken, that Forty Members were not present; House counted; and Forty Members not being present, The House was adjourned at Twelve o'clock.

HOUSE OF COMMONS,

Wednesday, June 11, 1856.

MINUTES.] PUBLIC BILLS.—1° Stock-in-Trade Exemption.

3° Insurance on Lives (Abatement of Income Tax) Continuance.

NAWAB OF SURAT TREATY BILL.

Upon the Order of the Day for the consideration of this Bill being read,

MR. VERNON SMITH said, he wished to suggest a postponement of the further consideration of the Bill for a week. The right hon. Gentleman the Speaker had decided that the subject was properly dealt with in a Private Bill, and it had been referred to a Select Committee, who had made their Report in a somewhat unusual shape, by calling the attention of the House to the reasons for their decision. Although the subject was treated of in a Private Bill, yet many points of a public nature were involved, as the Committee themselves had stated. Questions of constitutional principle would probably arise, and the whole subject would require most careful consideration. He therefore proposed that, as the Committee had made a special Report, the House should defer the further consideration for a week, in order that Members might make themselves fully acquaint-

ed with the evidence upon which the Report had been founded.

Motion made, and Question proposed, "That the Bill, as amended in the Committee, be taken into further consideration upon Wednesday next."

SIR FITZROY KELLY said, that the question to be decided concerned the good faith and honour of this country. It was a solemn appeal for justice, and involved the character and good name of the nation. He could not consent to any postponement of the Bill, as he conceived such a course would very much endanger its success. The claim of the Nawab of Surat was for the payment of an annuity which the East India Company had solemnly pledged itself to pay to the descendants of a native prince, who, upon the faith of that engagement had ceded to the East India Company his territories and revenues, of which the Company were in possession up to that very period. Of the justice of the claim now made he had no doubt, and if the right hon. Gentleman (Mr. V. Smith) would pledge himself that, in the event of the decision of the Committee of that House being in favour of the claim, the East India Company should render a tardy justice and make payment of the annuity, he (Sir F. Kelly) would not resist a postponement of the consideration of the Bill. He was sorry to see that the right hon. Gentleman gave no assent to that proposition, and, therefore his only course was to proceed. It was now some fifty years since the Nawab of Surat (in part coerced by the presence of a large British force) reluctantly entered into a treaty with the East India Company for the cession of his territories, his army, and his little fleet to the Company, upon consideration of receiving an annual payment, at first, of 75,000 rupees and one-fifth part of certain revenues, and subsequently a total annual sum of 150,000 rupees to be settled upon himself and his heirs. The annuity had been regularly paid to the Nawab during his life, and afterwards to his son and successor. Upon the death of the latter, in 1843, the office of Nawab was claimed by Meer Jaffier Ali Khan, the husband of the only surviving daughter of the last Nawab. The Company, however, disputed his right to the title, and after many delays they determined, *ex parte*—for Jaffier Ali was denied the opportunity of being heard upon his claim—they determined, on the construction of the treaty, that by reason of the office of Na-

wab having ceased—which, be it observed, they had made to cease, and might have made to cease at any moment after the treaty was signed—the successors of the Nawab having come to an end, his heirs had no claim to the annuity. It was true the Company had allowed to some Members of the family of the late Nawab certain pensions during their lives; but they insisted that this was an act of generosity or charity, and repudiated the claim as one of law or justice. In order to obtain the decision of Parliament the case had been brought before the House, and it had been introduced in the shape of a Private Bill upon the authority of the right hon. Gentleman the Speaker. The object of the Bill was to declare, that by the terms of the treaty the heirs and descendants of the Nawab of Surat were now entitled to the annuity of 150,000 rupees a year as originally granted. The Select Committee to whom the Bill was referred, comprising the right hon. Gentleman the Member for Oxford (Mr. Cardwell), at once a statesman and a lawyer, his right hon. and learned Friend the Member for the University of Dublin (Mr. Napier), and the hon. and learned Member for Weymouth (Mr. G. Butt), with others of learning and eminence, unanimously pronounced their decision against the Company, and declared that according to the legal interpretation of the treaty the Indian Government was bound to pay the annuity to the heirs-descendants of the Nawab and his family for ever. And no one could doubt but that if language similar to that used by the Company on the occasion of the original treaty, was held by any Gentleman in that House, that he would be compelled by every court of law in the kingdom to act by the interpretation put upon this treaty by the Select Committee. The question, then, to be decided was, whether under the terms of the treaty the annuity should be paid only to the heirs and successors in the office of the Nawab of Surat, or to the heirs-descendants of that person. The Select Committee entertained no sort of doubt that, according to the just and equitable as well as legal meaning of the words in the treaty, the annuity was payable to the heirs of the Nawab in the ordinary, natural, and legal meaning of that term—the heirs of the family. The Committee had, indeed, in their Report stated that “questions of a public nature had been raised in the course of the inquiry,” but who had raised them? It was the

Sir Piercy Kelly

East India Company who had raised those questions, and created those difficulties, with the aid of the able counsel who appeared for them in the Committee. It was said that there was a constitutional question involved, but he had yet to learn that there was anything in the constitution of British India which could release the East India Company from the performance of a solemn obligation? It must be remembered that the treaty had been almost forced upon an unwilling prince, who, upon acceding to it, handed over all his possessions, his power, and authority to the East India Company, and who did so with a firm belief in the good faith of those with whom he was dealing. The legal construction of the treaty, then, was in favour of the claim; and if the surrounding circumstances of the case were next considered, all doubt must be at an end; for it was expressly declared and represented to the Nawab by Governor Duncan, who negotiated the treaty, “that it would give security for an honourable provision to his master and his family and his descendants from generation to generation, greater than he had ever yet had; and as the Company had never failed in a strict performance of their engagements, would bind them in perpetuity to the support of the Nawab and his family.” Such being the language of the Governor of Bombay, he could not understand how this claim could be resisted. If it were said that an Address to the Crown was the proper mode of obtaining justice, his reply was that, supposing the Government prepared to advise the Crown to order payment they need only say so, and he would no longer occupy the time of the House. If the House should sanction the Report, as he confidently expected, it would be found that precedent and authority were likewise in favour of the claim. Thirty years ago the then Zemindar of Nozeed obtained a large loan of money by a Mr. Hodges, an English gentleman; that money was advanced upon the security of certain villages belonging to the Zemindar, and the guarantee was recognised by the East India Company. Subsequently, however, the territory of Nozeed was attached to the dependencies of the Company, and they refused to compensate Mr. Hodges for his advances to the Zemindar. On that Mr. Hodges appealed to Parliament, and a Private Bill was introduced, which passed through both Houses, and the Company was compelled to make good the claim

of Mr. Hodges. Another provision of this Bill related to the private estates of the late Nawab. The claims of the family of the Nawab of Surat were referred to a Mr. Freer, who made an award; and, subsequently, an Act of the Government of India assumed to dispose of those conflicting claims. That Act was most unconstitutional, because it took away the right of appeal to Her Majesty in Council, which was the birthright of every subject in India; and he was at first disposed to bring in a Bill to declare it void; but all he asked now, was to give back the right of appeal. He thanked the House for the attention with which they had listened to his statement, and he appealed to their sense of honour, of truth, and of good faith to deal justly with this matter. He understood, as a point of form, the Motion of the right hon. Gentleman was, "that this Bill, as amended, be further considered on this day week," as an Amendment to which he would move to leave out all the words after the word "Bill," and to add these words, "be now read a third time."

Amendment proposed, to leave out from the word "Bill" to the end of the Question, in order to add the words, "be read the third time," instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

SIR JAMES HOGG said, he could not understand how, if the hon. and learned Gentleman (Sir F. Kelly) relied so confidently on the justice of the case, he should persist in seeking a decision, when no single Member had had an opportunity of informing himself as to the merits or facts of the question. The House ought to know that the merits had not been reported upon by the Committee. They were of opinion, in common with himself, that questions of State policy should be left to the Executive, and to the Executive alone; and, whatever might be the determination, it should be borne in mind that the parties were not helpless. If the Executive did not do their duty, or had acted improperly, an Address to the Crown might be moved, or reference made to a Select Committee. There were many ways of raising discussions on a public question, but of all ways the most reprehensible and the most opposed to justice was to refer to a private Committee; and, if proof were required, it was only necessary to quote

the concluding sentence of the Report of this private Committee. They said:—

"Into other considerations of a political and constitutional nature your Committee have declined to enter. What degree of weight these considerations may bear your Committee have regarded as a question properly belonging to the House itself."

And so he regarded it, and therefore he was not prepared for a discussion of the construction of a treaty which was essentially a constitutional question, in the absence of all knowledge of the case. He was afraid that the object was to raise a prejudice against the East India Company. Besides, it was not a subject upon which loss of time was important, for he found in the paper last Session these notices:—

"Nawab of Surat.—Sir F. Kelly,—A Bill to repeal so much of the Act of 1848 which takes away the jurisdiction of the Courts of Law."

"Sir Esakine Perry,—To call the attention of the House to the treaty between the East India Company and the Nawab of Surat, and the interpretation put upon the treaty by the Company."

Why did not the hon. and learned Member for Devonport call attention to the treaty and its construction? The House would then have had papers before it, and escaped the gross delusions which pervaded the statement of the hon. and learned Member for East Suffolk (Sir F. Kelly). The hon. and learned Gentleman said this unfortunate Prince, as he called him, had transferred to the Company the territories and revenues of Surat. He denied it. He was not going into a long history about Surat, but he would mention a few leading points which he begged the House to keep in mind, in order to come to a clear understanding of the question. The East India Company had had commercial relations with Surat as long ago as 1667, but nothing of consequence occurred until political relations existed, which dated back to 1759. Previous to that date the chief of that city and its dependencies had committed great acts of injustice on British subjects, and refused redress. In consequence of that refusal, the Government of the day combined with an individual named Meerjan, and expelled the chief who had previously ruled over Surat, and the result of the engagement with Meerjan was, that he took the territory and revenue, while we took the Mogul castle and fleet. The treaty with Meerjan was a personal treaty, and not a treaty with him and his successors, and on his death it was fully

competent for the East India Company to bestow the town and territory of Surat upon any other individual. Meerjan died in 1789, and upon his death, and upon the death of each of his successors, the names and claims of competitors for the chief authority were sent to the English authorities, and, after discussion, the person deemed the fittest succeeded by the nomination of the Government of India, and certainly not by descent. In 1790, so completely was Surat considered within the control of the Government of India that the Governor of Bombay wrote to Lord Cornwallis expressing an opinion that, as the Indian Government had to pay for external defence and internal Government, it was better to do away with the mere form of authority in the Nawab. At that time the Mahratta power had a claim of "chout" upon the Surat territory, and, in terror of a conflict with the Mahratta power, Lord Cornwallis said he would not accede to the recommendation of the Bombay Government, but would allow the son of the ruler, who was dead, to succeed to the Nawabship. He now came to the year 1800, the date of the treaty. He did not want to urge the House to be bound by the words of the treaty; but in construing it, the first consideration should be the circumstances of the case, and the position of the parties at the time; the next should be the policy of the Government, the object which they had in view, and the means which they took for effecting that object; and the last should be, what was said and done by the actors and persons engaged in the treaty at the time. While the chiefs of Surat had possession, there were constant quarrels with the Company. The Company wanted them to pay something for defence and government. The chiefs pretended poverty, and would pay nothing. Those disputes were pending when, in 1800, the Nawab died. Lord Wellesley, who was then Governor General, said, "Now is the opportunity to place the government of Surat on a solid and proper footing." The hon. and learned Gentleman (Sir F. Kelly) said, "The object of the Government of that day was to purchase from the son of the deceased Nawab a transfer of his territory and revenue, and to pay for it." He (Sir J. Hogg) had previously shown that there was no succession in the family—no right of inheritance—and every word of a letter of Lord Wellesley, who made the treaty,

Sir James Hogg

gave an utter contradiction to the statement of the hon. and learned Gentleman. In that letter Lord Wellesley said:—

"The exigencies of the public service during the late war in Mysore, and the negotiations which succeeded the termination of it, would have rendered it impracticable to your Government to furnish the military force necessary for effecting reform in the government of Surat, even if other considerations had not rendered it advisable to defer that reform until the complete establishment of tranquillity throughout India."

Lord Wellesley distinctly stated that the East India Government were competent to do what they liked with the Nawabship and to give it to whom they pleased, and when he sent the articles of agreement to the Nawab he caused him to be explicitly told that his acquiescence in the articles was the condition on which he was to succeed to the Nawabship. The hon. and learned Gentleman (Sir F. Kelly) spoke from his brief, and he only knew as much of the case as it was the interest of the parties to tell him, but he could not know anything of this letter of Lord Wellesley, which was the very essence of the case. Lord Wellesley expressly said that the provision made for the Nawab was not a provision for the individual and his family, but for the maintenance of the State and office of the Nawab. Lord Wellesley added that if the Nawab chose to ratify the articles he was to be placed in the situation of Nawab, and if he refused to do so, the Government would nominate some one else to the office. He had thus shown what were the views of the Government and of Lord Wellesley the Governor General of India, and he now came to the treaty itself, which was strictly in consonance with the letter of Lord Wellesley. He therefore objected altogether to the assumption that the hon. and learned Gentleman was one whit more anxious to do justice than those whose duty it was to administer the government of India. Lord Ellenborough, Lord Hardinge, and Lord Dalhousie were quite as desirous to do justice in this matter as the hon. and learned Gentleman, and they and three successive Presidents of the Board of Control had always taken that view which the hon. and learned Gentleman had discovered to be a gross injustice. The title of the agreement with the Nawab was as follows—

"Articles of Agreement between the East India Company and the Nawab of Surat, his Heirs and Successors, for the Administration of the Government of the city of Surat and its Dependencies."

The preamble set forth that the East India Company had been subjected to heavy expenses for the protection of Surat, and that the existing system of government was inadequate for the protection of life and property. That, he contended, bore out the construction that the agreement was one between the East India Company and the Nawab and his heirs, being Nawabs. The article on which the hon. and learned Gentleman relied was that in which the East India Company agreed to pay the Nawab and his heirs and successors a certain sum out of the revenues of Surat. The East India Company contended that that article applied to his heirs and successors, being Nawabs; and that whenever the Nawab was mentioned it indicated the office, and not the rights of individuals. He was sorry to trouble the House at such length, but he felt he had an uphill case. [Mr. MURDOCH. Hear, hear!] Yes, he could tell the hon. Member that he had an uphill case, when men by their cheers indicated that they had formed an opinion upon a case of the merits of which they must of necessity be ignorant, and before they had the means of knowing whether their opinion was well or ill-founded. A discussion subsequently arose between the Bombay Government and the Supreme Government whether or not they would allow the Nawabship to go to a collateral heir. A person called the Bukshee would in that case have been Nawab; and, if so, this man and his daughters would not have got one shilling. The hon. and learned Gentleman admitted that the Nawabship was gone, but yet he contended that the sum of 150,000 rupees a year should go to the heirs natural of the last Nawab. There was not a syllable in the treaty to show that it was ever intended to limit either the Nawabship or the annuity to the heirs natural of the person with whom the treaty was made. It was said that this man had been deceived, but what Mr. Duncan said to him was, that those who preceded him had only a personal right and had succeeded by the nomination of the Government of India, but that by the treaty in question the Nawab and his family would succeed by the right of succession. Mr. Duncan used the words, "heir" and "family," and the hon. and learned Gentleman contended that these words would not have been used if it had not been intended that his descendants and family, whether they succeeded or not to the Nawabship, would get the rupees.

His (Sir J. Hogg's) version, on the contrary, of what Mr. Duncan said was, that whereas the Nawab had up to that time only succeeded by nomination, by the treaty the Nawabship would be secured in the family; and with the Nawabship would be secured the rupees. Meer Jaffier Ali Khan in his memorial to the Court of Directors, in February, 1844, at first claimed as successor to the Nawab; but when both the Government of India and the Court of Directors told him it was impossible to recognise his claim as successor, because the Nawabship had lapsed, he shifted his ground and said that the annuity had been granted in perpetuity, was private property, and was given irrespective of, and unconnected with the Nawabship. Yet this was the person who only a few months before had preferred his claim to the succession. One of the grounds upon which he founded his claim to the Nawabship was the assurance which, as he stated, he had received from his father-in-law. Now, a treaty had been set on foot between the Nawab of Baroda and the late Nawab of Surat with regard to the marriage of the daughters of the latter with the sons of the former, and an arrangement having been made that the stipend and the Nawabships of Surat should go to the sons of the Nawab of Baroda, the two Nawabs wrote and asked the Government of India to ratify that arrangement. The Government refused its assent, but the fact of its having been demanded proved that the parties thought they had themselves no right to enter into it. Upon every occasion the Government had exercised a control over the stipend, and at the time of the marriage of the two daughters of the late Nawab the husband must have been perfectly well aware that he was not entitled to a farthing. But did the House suppose that when the grant ceased the family of the Nawab would be left to want, or even that they would be in straitened circumstances? No such thing. A calculation had been made of the amount necessary to keep up the State of Nawab; that amount—£4,000—had been deducted from the stipend of 150,000 rupees—£15,000—and the remaining £11,000 had been divided among the family, not, he admitted, as a matter of right, but as a matter of grace and favour. Now, he could inform the House that that very claimant, although not entitled, either by the English or the Mahomedan law, to a single farthing, received

£2,400 a year from the liberality of the Government. He found that the title of the Bill had been changed. It was called the "Nawab of Surat Treaty Bill," instead of the "Nawab of Surat Bill." Probably the hon. and learned Gentleman thought the House would be alarmed at seeing a Bill introduced for the purpose of enforcing rights claimed under a treaty. It was his opinion that a treaty entered into by the Government of India was as binding upon the Government of England and upon the Crown as the treaty which had lately been signed at Paris, and the House would have cause to repent the establishment of a precedent by which individuals who fancied they had rights under treaties would be enabled to come to that House and attempt to enforce those rights. Now, what he would ask the House was, what was the definition of a private Bill? It was a Bill which affected two or three people, not the whole community, and the result would be most calamitous if private Bills were allowed to deal with matters in which important questions of public policy, like the present question, were involved. Why had not the hon. and learned Gentleman, instead of introducing a private Bill, moved for a Committee or an Address to the Crown? He now came to a question totally unconnected with that which he had hitherto been discussing. The petitioner (Meer Jaffer Ali Khan) dwelt very little at first upon the question of the treaty, but said, "When the Nawab died you took possession of the Government, and you brought in a Bill to screen yourselves, to withdraw the question from the jurisdiction of the ordinary Courts, and to take away my right of appeal." That was certainly an astounding statement to those who were not acquainted with India, but those who were acquainted with that country knew that the greatest honour which could be conferred on a native was to exempt him from the jurisdiction of the ordinary Courts. He held in his hand a list of 288, not princes, but sirdars, in the Bombay territory alone, who had a right to that exemption. The list was divided into three classes, and the greatest injury that could be inflicted upon a man in No. 1 class was to put him into No. 2, and upon a man in No. 2, to put him into No. 3. At the death of the Nawab the Government had nothing to do but to see that the estate went to the rightful heirs, and a Bill was passed; not to withdraw it from the ordinary tribunals,

Sir James Hogg

but to constitute a tribunal for the adjudication of conflicting rights. When the Bill was published, Meer Jaffer Ali Khan thought it was not extensive enough, and he actually prepared an additional clause, distinctly exempting himself, his family, and the estate from the jurisdiction of the ordinary tribunals. Yet this much-injured man now ventured to complain of having been withdrawn from their jurisdiction and deprived of his appeal to the Queen in Council, having himself been not only a consenting, but even a soliciting, party to that withdrawal. There was another important point to which he desired to call the attention of the House. He contended that this was a question of public policy which ought to be determined by the Executive, and could not be brought under the consideration of any Court of justice; but if he were wrong in that argument—if the question were one for a judicial tribunal, why had not the petitioner taken it before the judicial tribunals of India, from whose decision, if it were unsatisfactory, he might have appealed to the Queen in Council? Although the petitioner was exempt from the jurisdiction of the ordinary tribunals, the Government and the Company were not; he could not be sued, but he could sue them in every Court in India. Why did he not take that course? Why, because he never thought of insisting on the rights he now claimed until he came to England. But he (Sir J. Hogg) warned the House that if they taught the natives of India to look for the redress of their grievances, not to the local authorities, but to the English Parliament, they would entirely destroy the influence of the Government of India; and they would transfer "khadput"—not corruption, but, what was still worse, undue influence—which they had banished from Baroda and Bombay, to England. He was very much astonished that no papers were laid before the House previous to the introduction of the Bill; but, a few days before a discussion upon it was likely to take place, his hon. and learned Friend behind him (Sir E. Perry) had supplied the omission, and the production he now held in his hand had been brought under their notice by the petitioner, who had the hardihood to style himself a descendant of the Mogul, a statement which was absurd, because it was not true. Now, the reason why the Nawab had consented to the marriage of his daughter with Meer Jaffer Ali Khan was, that there was a doubt as to the

legitimacy of their mother. It was in consequence of that stigma upon the family that he put up with the low-born Meer Jaffier Ali Khan. Sir George Clerk stated that there were great doubts as to the marriage of the mother of the girls, but there was no doubt that they were born four years previous to the ceremony, even if it had taken place. Sir George Clerk also said that the connection was far below the rank of the Nawab, since Meer Jaffier Ali Khan was of no family whatever, having been the architect of his own fortunes. ["Hear, hear!"] He had not a word to say against a man because he had been the architect of his own fortunes; still, under those circumstances, he had no right to boast that he was a descendant of the Moguls. Sir George Clerk further stated that the Nawab had consented to his daughter's marriage with Meer Jaffier Ali Khan, in consequence of the doubt as to her legitimacy, and that, in his opinion, Meer Jaffier Ali Khan had been most liberally dealt with by the Government. Mr. Willoughby also concurred in the opinion of Sir George Clerk. In the private estate of the Nawab the Home Government had no interest, and he wished that that had gone before the Queen in Council, because it was a matter of judicial decision; but the construction of treaties and questions of State policy were not matters which could be submitted to any judicial tribunal. He therefore hoped the House was prepared to accede to the Motion of his right hon. Friend (Mr. V. Smith) for the adjournment of the consideration of the Bill. Before sitting down he would beg to correct an error he had fallen into in the course of his speech. He found that the petitioner Meer Jaffier Ali Khan described himself, not as descended from the Moguls, but from a nobleman in their Court.

Mr. CARDWELL said, he felt sure that the House was desirous of dealing with this great question in a judicial spirit, and of giving a just and equitable decision, so that justice might not be defeated either by delay or by the absence of any knowledge which it was desirable to possess. Viewing the matter in that light, he regarded it as rather inconvenient that the House was at that moment discussing the great merits of the question on a motion for delay, and consequently giving it a partial and incomplete consideration. The House should determine at once whether it would go into the question that day or on next Wednesday with the evidence

before it. He had acted on the Private Bill Committee on this measure with colleagues unanimous in their decision, and, as far as they were concerned, it would be agreeable to them that the House should be in possession before coming to a vote, of the grounds on which the Committee decided. He would explain to the House how the Committee regarded the nature of their duty. Finding that the subject-matter in dispute was of a public, and not private nature, they felt that the attention of the House must be called in a formal and solemn manner to the real merits of the controversy. In the first place, acting as a Private Bill Committee, they dealt with the treaty of 1800 according to its construction as a written document, and according to the representations which appeared to have been made at the time it was signed and executed, the Committee unanimously arrived at the conclusion that if the agreement had been made between private parties it ought to have force and validity, and consequently they so reported the Bill to the House. Then came the other question which the Committee had defined in their Report to be of a constitutional or political character. The constitutional question was this:—The charge, if enacted by Parliament, would be a charge upon the public revenues of India. A Bill treating a charge on the revenues of this country could not come before the House in the shape of the present Bill, it being a fixed rule of the House that no such Bill could make any step without a recommendation from the Crown. There was, however, no Standing Order applicable to charges on the revenues of India; but the Committee, sitting as a Private Bill Committee, did not think they could come to any decision on that point, which, if noticed at all, ought, they considered, to be noticed by the House itself. They also came to the same conclusion in reference to any public considerations connected with the treaty. He would now venture to state the course which he thought it would be convenient for the House to take. It had been justly said that this was a question in which the honour of the British name and the honour of the British Crown were concerned—and he thought the House should first hear from the constituted authorities, the responsible Ministers of the Crown, what was the course which they, taking a wide and comprehensive view of the subject, were prepared to take in

regard to the stipulations of the treaty, and then the House would be able to judge whether their view was a right and equitable one, and such as they ought to sanction. The right hon. Gentleman the President of the Board of Control had moved the adjournment of the consideration of the Bill till Wednesday next; and he understood that the hon. and learned Member for East Suffolk (Sir F. Kelly) was willing to assent to that arrangement if he could be assured that a decision would be come to next Wednesday, that that decision should be taken to be final, and that, in case it was in favour of the Bill, the money would be paid. It was not for him to enter into that part of the case, but a reasonable course appeared to be this—that the President of the Board of Control should couple the proposition for the adjournment of the debate until next Wednesday with a promise that he would then be prepared to explain the views and intentions of the Government in regard to the treaty of 1800; and also with an assurance that the Bill should not be defeated by being delayed too late to receive a second reading in the Lords according to the Orders of that House.

MR. VERNON SMITH said, he could assure the House that he had moved the adjournment of the debate not to defeat the Bill by delay, but because he thought it behoved the House, for the sake of its dignity, if not for the sake of decency, after having referred the Bill to a Committee, to know on what grounds that Committee had come to a decision. The right hon. Gentleman the Member for Oxford had asked whether the money would be paid, supposing the next stage of the Bill should be carried. That matter was not in the hands of the Executive, for they could not dictate what course the House of Lords should adopt with regard to the Bill; but he believed that, if the present debate were adjourned till Wednesday next, there would be no risk of the Bill being prevented passing both branches of the Legislature by mere delay.

MR. CARDWELL said, he must beg to explain that nothing was further from his intention than to imply that the right hon. Gentleman wished to defeat the Bill by delay.

SIR FITZROY KELLY said, he wished to have an assurance that the evidence would be printed by next Wednesday, so that there might be no further delay on that ground.

Mr. Cardwell

SIR ERSKINE PERRY said, that the main question was the validity of the treaty of 1800. Now, all the evidence on that subject was already on the table of the House. If the collateral evidence were to be printed, it could not be got ready in time. Meer Jaffier Ali Khan had been for three years endeavouring to bring the matter to an issue. The East India Company was bound to do him justice, and it was not because political questions were mixed up with the question of justice that justice was not to be rendered to him. He (Sir E. Perry) asked for an assurance that, at all events, the question would come on on Wednesday next. Delay in a case between a powerful Government and an individual implied defeat. If the matter were left to next Session it would amount to a refusal to decide it. As to the conclusions of the hon. Member for Honiton (Sir J. Hogg) he dissented from them from first to last, and should be ready to prove every one of the facts on which he founded them to be unfounded. It was taking the mere gossip of the country and founding grave proceedings upon it. One statement of the hon. Member was, that Meer Jaffier Ali Khan, the petitioner, was a man of humble origin, who had married a rich wife. Now, the fact was, that he was of the same family, that of the Nawab of Baroda, with which he intermarried. The East India Company itself had admitted the legitimacy of the present petitioner, which the Member had questioned. The hon. Member had also stated that the appointment to the Nawabship of Surat had been made in 1759 by the East India Company. The fact was, that it had been independent for a long time previously; but in 1800, the East India Company, for their own purpose, chose to deprive the then holder of his office. The Nawab signed a treaty in ignorance of its meaning, and under a deceptive notion of English law. He thought he had said enough to show that the opinion of the hon. Member for Honiton was unfounded, which he did not attribute to intention, but to his sanguine temperament, which led him to take everything according to his own views. He trusted that a full assurance would be given that the question would be finally settled on Wednesday.

SIR FITZROY KELLY said, he was not aware that the right hon. Gentleman (Mr. V. Smith) was not as well able to express his views and those of the Government on the mere question of the construc-

legitimacy of their mother. It was in consequence of that stigma upon the family that he put up with the low-born Meer Jaffer Ali Khan. Sir George Clerk stated that there were great doubts as to the marriage of the mother of the girls, but there was no doubt that they were born four years previous to the ceremony, even if it had taken place. Sir George Clerk also said that the connection was far below the rank of the Nawab, since Meer Jaffer Ali Khan was of no family whatever, having been the architect of his own fortunes. ["Hear, hear!"] He had not a word to say against a man because he had been the architect of his own fortunes; still, under those circumstances, he had no right to boast that he was a descendant of the Moguls. Sir George Clerk further stated that the Nawab had consented to his daughter's marriage with Meer Jaffer Ali Khan, in consequence of the doubt as to her legitimacy, and that, in his opinion, Meer Jaffer Ali Khan had been most liberally dealt with by the Government. Mr. Willoughby also concurred in the opinion of Sir George Clerk. In the private estate of the Nawab the home Government had no interest, and he wished that that had gone before the Queen in Council, because it was a matter of judicial decision; but the construction of treaties and questions of State policy were not matters which could be submitted to any judicial tribunal. He therefore hoped the House was prepared to accede to the Motion of his right hon. Friend (Mr. V. Smith) for the adjournment of the consideration of the Bill. Before sitting down he would beg to correct an error he had fallen into in the course of his speech. He found that the petitioner Meer Jaffer Ali Khan described himself, not as descended from the Moguls, but from a nobleman in their Court.

Mr. CARDWELL said, he felt sure that the House was desirous of dealing with this great question in a judicial spirit, and of giving a just and equitable decision, so that justice might not be defeated either by delay or by the absence of any knowledge which it was desirable to possess. Viewing the matter in that light, he regarded it as rather inconvenient that the House was at that moment discussing the great merits of the question on a motion for delay, and consequently giving it a partial and incomplete consideration. The House should determine at once whether it would go into the question that day or on next Wednesday with the evidence

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in possession of that dignity. That was assuredly a pettifogging mode of procedure which the House ought not to tolerate.

SIR JOHN FITZGERALD said, that every appeal to that House ought to be most carefully listened to, and it was a denial of justice to delay granting redress to an act of the most flagrant tyranny on the part of the Bombay Government. The East India Company had granted an annuity, and then taken it away on false pretences, and it was for redress against such a proceeding that the petitioner appealed to that House.

MR. SPOONER said, that the House, according to the terms of the Report itself, was bound to accede to the Motion of the hon. and learned Member for East Suffolk. What constitutional question, he would like to know, could stop the obligation of fulfilling the express terms of a treaty? The language was perfectly clear; and the Committee had declared that it could come to no other conclusion than that on which it had framed this Bill. He denied, therefore, that there was any necessity for waiting to read the evidence. He heard with great reluctance the proposal to postpone the consideration of the matter.

MR. OTWAY said, he could not see that there would be any disposition on the part of the Government to delay the Bill beyond Wednesday, and if they did, the House, he trusted, would not allow it. He thought, therefore, that the hon. and learned Gentleman (Sir F. Kelly) ought to withdraw his Amendment. As to any information the House would get in the meantime, he did not believe the House could possibly be put in possession of any facts to influence its judgment; but as the right hon. Gentleman the President of the Board of Control had said that on that day he should be prepared to state the views of the Government, he thought that the most judicious course for them to adopt would be to wait till that day.

MR. JOHN MACGREGOR said, that there had been frequent movements in the country to put down the Board of Control, which often interfered most improperly with the functions of the East India Company. The treaty that had been so often mentioned in the course of the discussion had been made in 1800, and was one of the greatest frauds that had ever been perpetrated. He concurred in all that had fallen from the hon. and learned

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Members for Devonport and East Suffolk. He thought the speech of the hon. Member for Heniton (Sir J. Hogg) utterly unfounded. All the clamour that had been raised was raised by interested persons to attack the conduct of the East India Company, when the real fault, he believed, lay with the Board of Control.

SIR CHARLES WOOD said, the only object of the adjournment was to enable the House to see the evidence, which he understood from Mr. Speaker would be ready in one or two days. It was not to suit the convenience of the President of the Board of Control, for though he had abstained to-day from going into the merits of the case, he was perfectly well acquainted with them, and had already formed a judgment on the matter. As to the resumption of the debate on Wednesday next, that, of course, would depend on the House. No opposition would be offered by the Government to the question being brought forward on that day, and the Government would be prepared then to state their view of the subject. In the absence, however, of the evidence, which was necessary to enable the House to form an opinion on so very important a question, he considered that it would be unwise to proceed to a division that day.

SIR FITZROY KELLY said, that as it was the intention of Her Majesty's Government to state their opinion on Wednesday on this question, and the evidence would be so soon in the hands of Members, he would consent to the postponement of the question until Wednesday next.

Amendment, by leave, withdrawn.

Main Question put, and agreed to.

Bill, as amended in the Committee, to be taken into further consideration upon Wednesday next.

EARL OF PERTH AND MELFORT'S COMPENSATION.

MR. FITZROY brought up the Report.

SIR HENRY WILLOUGHBY said, he wished to be informed what amount of money was involved in the grant proposed to be made under the Bill.

SIR FITZROY KELLY said, the step now taken was merely to authorise the bringing in of a Bill. Full explanations would be given when the Bill was brought in.

COLONEL FRENCH said, that if the principle was admitted, it should also be extended to England and Ireland.

tion of the treaty now, as he could be at any future period; and, as he did not understand the right hon. Gentleman to give any pledge, that in the event of the debate being adjourned to Wednesday next, it would be finally dealt with by the Government, then he had no other course to adopt than to press the Bill through its present stage.

MR. WIGRAM said, he thought that the question could not be decided in the absence of the evidence, and if the Motion was pressed to a division he should vote with the Government. As to the merits of the case, it was only a Private Bill in form, but public in reality, as dealing with public revenues and repealing a public legislative Act. The Bill ought, he was of opinion, to have been so framed as that the doubtful question of the annuity, as to whether it was granted to the Nawab and his successors in office, or to the Nawab and his heirs simply, should be left open, so as to be decided hereafter. Whatever the East India Company might do, the real responsibility ought to rest with the Board of Control. For that reason, he thought that the first provisions of the Bill were unsatisfactory, as referring everything to the Board of Control. The second clause was equally unsatisfactory, as dealing with a matter which ought only to be settled by the family of the Nawab, as referring to the manner in which his estate ought to be divided, on the merits.

SIR JAMES GRAHAM said, he should support the Motion for adjournment, not thinking that the House was at present competent to arrive at any satisfactory decision on the merits of the case. The House had before them the Report of a most competent Committee, which had given its opinion on the merits of the case, as between the two parties, intimating however, at the same time, that there was a further and most important question—a political and constitutional question—to be taken into consideration, which they did not conceive to have been referred to them, or, at all events, which they had not felt it their duty to report upon. Upon this question it was of the last importance that the House should hear the opinion of Her Majesty's Government, as represented by the right hon. Gentleman the President of the Board of Control. He understood the right hon. Gentleman to have stated to the House that he should be prepared to give that opinion on Wednesday next, and

that in all probability, before Wednesday next, the evidence which was the groundwork of the opinion to be formed by the right hon. Gentleman and the House, as to the higher question of the political and constitutional bearing of the matter, would be in the hands of Members. That evidence, he was told, was voluminous; but, looking at the late period of the Session, it would be a substantial denial of justice if, on account of its late production or its bulk, the decision of the House were postponed beyond Wednesday next. If the President of the Board of Control would assure the House that he would, at all events, be prepared to pronounce an opinion on Wednesday next, and that in the meantime every exertion should be used to place the evidence in the hands of Members, it would be unwise at the present time to proceed to a division and to carry the present discussion further, therefore, in his opinion, was inexpedient and unnecessary.

MR. VERNON SMITH said, his sole reason for desiring an adjournment was the absence of the evidence on which the decision of the House must rest; but he was informed by Mr. Speaker that the evidence would be ready in a very few days. The right hon. Gentleman the Member for Carlisle (Sir J. Graham) had asked whether he should be prepared on Wednesday next to state the course which the Government intended to take with respect to this matter, even if the evidence were not printed; but that would be a question, not for him, but for the House to decide. If the House should next Wednesday be determined to proceed to a division, even without the evidence, of course he should then be prepared to state the view which the Government took on the subject.

SIR FITZROY KELLY said, if the right hon. Gentleman would assure him that he would be ready to proceed next Wednesday, with or without the evidence, he would agree to the adjournment; otherwise he should take a division that day.

MR. J. G. PHILLIMORE said, he must deny that the political consideration ought to interfere with what was clearly justice. An annuity had been granted by the East India Company to the family of the petitioner, which the Company had now taken away from the petitioner, on the bare pretence that he was not longer a Nawab, and that the annuity was only granted to the family while it continued

in possession of that dignity. That was assuredly a pettifogging mode of procedure which the House ought not to tolerate.

SIR JOHN FITZGERALD said, that every appeal to that House ought to be most carefully listened to, and it was a denial of justice to delay granting redress to an act of the most flagrant tyranny on the part of the Bombay Government. The East India Company had granted an annuity, and then taken it away on false pretences, and it was for redress against such a proceeding that the petitioner appealed to that House.

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SIR FITZROY KELLY said, the step now taken was merely to authorise the bringing in of a Bill. Full explanations would be given when the Bill was brought in.

COLONEL FRENCH said, that if the principle was admitted, it should also be extended to England and Ireland.

SIR GEORGE GREY said, that giving leave to introduce the Bill would not pledge the House to its support. In assenting to the petition, his noble Friend (Lord Palmerston) had reserved the right of the Government to oppose the Bill, if they should see fit.

MR. W. WILLIAMS said, he must complain that the House was, by this proceeding, called upon to take a step in the dark, and he thought the House ought to have some explanation before being called upon to affirm the principle.

COLONEL WILSON PATTEN said, that although the measure was brought in as a private Bill, it partook very much of the nature of a public Bill; and, perhaps, although it was not usual in private Bills, it would be as well that some explanation should be given, at that stage, of its purport.

SIR FITZROY KELLY said, that having charge of the Bill, he would beg to explain that the ancestor of the present Earl of Perth, in the reign of James II., was attainted of high treason and executed, his estates and property at the same time being forfeited to the Crown. His wife, however, who was ignorant of his supposed treasonable transactions, was possessed of private property in her own right, and this property was included by mistake in the confiscation, although she had committed no crime against the Crown. The descendants of the Earl and Countess had recently, within the last two or three years, in fact, secured the reversal of the attainder, and obtained the restoration of the title, and the object of the proposed Bill was to obtain some compensation from the hereditary revenues of Scotland for the private property of the countess, which had been improperly confiscated.

MR. LABOUCHERE said, he thought that great care should be taken that the public revenues should not be voted away upon the application of private individuals, and the House should be cautious how it opened the door to claims of this description. He trusted that by the vote which the House now gave, it would not be prevented from bestowing most ample consideration on the measure on a future occasion.

MR. HENLEY said, he quite concurred with the right hon. Gentleman, that the utmost caution ought to be observed with regard to these Compensation Bills. Private Bills of that character ought not to be brought in at so late a period of the session, and perhaps it would be as well

that some positive rule should be laid down for the future for regulating the introduction of these half private, half public Bills.

LORD HARRY VANE said, perhaps it would not be out of place if Mr. Speaker were to explain the existing mode of proceeding in introducing these double character Bills.

MR. SPEAKER said, in the first place, the promoters lodged a petition at the Private Bill Office, which was afterwards referred to the Standing Orders Committee to determine whether it was desirable that the Standing Orders should be dispensed with as had been done in the present instance. The Standing Orders being so suspended the petition for a Bill could still only be received by the House on the recommendation of the Crown, and when that recommendation was given, the petition was referred to a Committee of the whole House, because it related to the disposal of public money. That ordeal the present petition had already gone through, and the House was now asked to receive and adopt the Report which the Committee of the whole House had agreed to. Supposing the House to agree to the Motion, the Bill founded upon it would be introduced, and after the first reading it would be referred to the Examiner of Private Bills, to see if there were any Standing Orders, which it was necessary the promoters should have complied with. Everything being found to be in strict order, the Bill would be then read a second time as a Private Bill and referred, not to the ordinary Private Bill Committee, but to a distinct Select Committee. The Bill would then come back to the House in the shape of a Public Bill, when it would have to be referred to a Committee of the whole House, and in all its subsequent stages it would be treated in the same manner as though it were essentially a public measure.

THE CHANCELLOR OF THE EXCHEQUER said, he could express no opinion whether the Bill was founded in justice or not, as he was wholly uninformed as to the precise grounds of the claim the promoters asserted. No communication whatever had been made to the Treasury upon it, and under those circumstances perhaps it would not be unreasonable if he asked the hon. and learned Gentleman who had charge of the Bill to state now what were the materials upon which he proposed to ask the House to form a judgment in discussing the second reading of the Bill.

that great man, Mr. Dargan, he trusted that the House would permit the Bill to be read a second time; and at a future stage he would introduce Amendments that would do away with objections.

Motion made, and Question proposed, "That the Bill be now read a second time."

MR. J. D. FITZGERALD said, he wished to call special attention to the fact that one of the provisions of the Bill proposed to do away with the practice of registering licences, the fees from which produced £500 a year. He had not heard that the citizens of Dublin were willing to give up that amount. The other fee also went to relieve taxation, and was also to be abandoned. Then the Bill proceeded to deal, not only with retailers but with grocers, who might sell not less than two quarts, not to be consumed on the premises. It might be an important question as to placing grocers under the same provisions as other dealers, but that class of traders ought to be informed previously what was in contemplation. The other important alteration had reference to the hours at which public-houses should be kept open. It might, perhaps, be of benefit to alter the hours so as to make it lawful to keep open after nine on Sundays, but that could be hereafter considered. Then, with respect to altering the mode of granting licences, there were well-founded objections to the alteration proposed by the Bill, and as he could not recommend the House to agree to the second reading of the Bill, he should advise the hon. Member to withdraw his measure.

MR. BRADY said, he was not quite satisfied with the force of the objections of the right hon. and learned Gentleman.

MR. GROGAN said, he conceived that some extension of the hours during which public-houses in Dublin were permitted to be open was requisite for the convenience of trade, but the Bill was clogged with other provisions which he could not support.

MR. HORSMAN said, he would appeal to Mr. Speaker whether the alterations proposed to be effected in the Bill did not render its further prosecution irregular.

MR. SPEAKER said, that if the operation of the measure was to be limited to a particular locality the end in view must be attained by means of a private Bill.

MR. BRADY said, he would, under those circumstances, withdraw the Bill,

Mr. Brady

trusting that the Government would see that the needful changes were made.

Motion, by leave, *withdrawn*.

Bill *withdrawn*.

The House adjourned at five minutes before Six o'clock.

HOUSE OF LORDS.

Thursday, June 12, 1856.

MINUTES.] PUBLIC BILLS.—1st Insurance on Lives (Abatement of Income Tax) Continuance.
2^d Drafts on Bankers.

REFORMATORY AND INDUSTRIAL SCHOOLS BILL.

LORD RAVENSWORTH moved, that the Committee (which stood appointed for this day) be put off to Tuesday next.

THE EARL OF CLANCARTY asked whether it was intended that the Bill should extend to Ireland.

THE DUKE OF ARGYLL inquired whether the Bill was to embrace Scotland, as he feared that if it was, it would clash with the provisions of another measure, more especially as regarded the removal of children.

THE EARL OF HARDWICKE said, that the Government ought to take a decided course with regard to these reformatory schools, which had been left too much, he thought, in the hands of private individuals. The Government ought to be prepared to deal with the important question of dealing with our juvenile criminal population. He much feared that the educating and clothing of young persons in these reformatories only offered a premium to a certain class of parents to induce their children to commit felonies, in order that they might receive eleemosynary assistance. The whole question was in an unsatisfactory state, and it had become a matter of great importance to determine how these schools—which ought to be prisons—should be conducted. Criminals, he maintained, ought to be dealt with by the Government of the country in which they committed their offences.

THE EARL OF HARROWBY said, the subject had not been overlooked by the Government, but the conclusion they had come to was, that this particular process of reforming juvenile offenders would be best intrusted to private hands. The influence exerted over such offenders must be the influence of kind hearts and of

strong minds, and this sort of influence was difficult to be obtained through the medium of State machinery. Thirty or forty years ago this same method was, he believed, pursued with regard to refuges for the destitute. If the Government undertook the establishment of these reformatory institutions great difficulties, both religious and moral, at once started up. What, it would immediately be asked, was to be the religious training adopted? Was it to be the training of the Church of England? Such objections did not arise when these establishments were left to individual effort; and he thought, under all the circumstances, the Government had done wisely in declining to interfere by lifeless State machinery in a work which was at present being actively and heartily carried on throughout the whole country. As to the noble Earl's fears of danger to society from the establishment of reformatory institutions, which would to a certain extent tend to the encouragement of crime, that difficulty was met by a provision in the existing law, which enabled the magistrates, on committing a child to the reformatory, to charge the parent with payment of a sum for his maintenance. This provision could not be acted on in every case, but it was very generally carried into effect, and would exert, he believed, a wholesome influence upon parents.

LORD RAVENSWORTH said, the observations of his noble Friend and relative (the Earl of Hardwicke) seemed to be directed against the very principle of reformatory establishments rather than against any special provisions proposed for adoption. Now, whatever opinions might be formed with regard to these institutions, it was an undoubted fact that they formed a part and parcel of the institutions of the country at the present moment. There was hardly a populous district or a populous town in England which had not besieged the Home Office with deputations praying for the establishment of these schools, and no less than three Acts of Parliament now appeared on our Statute-book which were passed for the express purpose of regulating reformatories. It was therefore beside the question to protest against a principle which had already been adopted, was now in full operation, and the working of which could only be tested by experience. In answer to the noble Earl behind him (the Earl of Olanearthy) he begged to state that the Bill could not possibly be applied to Ireland,

inasmuch as Ireland did not at present possess reformatory institutions. There was a measure upon the subject before the other House which was being met, however, with strenuous opposition. To a certain extent, the measure would be applicable to Scotland.

Motion agreed to; and the House ordered to be put into a Committee on Tuesday next.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Thursday, June 12, 1856.

MOTIONS.] PUBLIC BILLS.—1^o Deeds (Scotland); Survey of Great Britain, &c.; Hospitals (Dublin).

2^o Annuities Redemption; Peace Preservation (Ireland).

3^o West India Loans; Aldershot Camp.

MESSAGE FROM THE QUEEN—THE SARDINIAN LOAN.

Message from HER MAJESTY brought up, and read by Mr. SPEAKER (all the Members being uncovered), as follows:—

“ VICTORIA R.

“ HER MAJESTY thinks it right to acquaint the House of Commons, that She has concluded a Convention with His Majesty the King of Sardinia, by which She has undertaken to recommend to Her Parliament to enable Her to advance, by way of Loan, to His Majesty the King of Sardinia, a sum of One Million Pounds sterling, contemplated by a Convention made between Her Majesty and His Majesty the King of Sardinia on the 26th January, 1855, in like manner, instalments, and proportions, and subject in all respects to the same conditions as if the late War had not been brought to a close at the expiration of twelve months from the payment of the first instalment of the sum of One Million Pounds sterling under the last-mentioned Convention.

“ The Government of His Majesty the King of Sardinia engages to accept the advance of this additional sum, on the same conditions in all respects, especially as to the calculation and payment of the interest, as if such advance had been

made under the last-mentioned Convention.

“HER MAJESTY has directed a Copy of this Convention to be laid before the House of Commons, and She relies on the public spirit of the House of Commons for enabling Her to make good the engagement which She has contracted.

“V. R.”

Committee thereupon on *Monday* next.

THE PAPER DUTY.—QUESTION.

MR. MILNER GIBSON wished to put a question to the hon. Member for the University of Dublin (Mr. G. A. Hamilton). The hon. Member and his right hon. Colleague had introduced a Bill, entitled “a Bill to repeal and amend certain laws and statutes relating to the University of Dublin.” In that Bill there was a clause by which the hon. Gentleman proposed to extend the exemption now allowed from the Excise duty charged on paper used in the printing of Bibles, Testaments, Psalm books, and books of Common Prayer to educational books used in the University of Dublin and printed at the University press. The extension of exemption from paper duty to educational works was a subject in which he had taken great interest. He was very glad to find that the hon. Members for the University of Dublin admitted by this proposal the important influence which the paper duty had in the checking diffusion of knowledge and preventing education. He wished therefore to ask the hon. Member whether this Bill was to be proceeded with, and when? And, further, he wished to ask whether the hon. Gentleman would communicate with his right hon. Colleague and consider the propriety of joining him in asking the Government to make a larger concession than the one he proposed, and extend the exemption from paper duty to educational works used not only in the University of Dublin, but generally throughout the country, and to school books.

MR. G. A. HAMILTON begged to state that the Bill in question had been prepared in conformity with the Report made by certain Commissioners who were appointed to inquire into the state of the University of Dublin, and who made their Report in the year 1853; the Archbishop of Dublin, the present Lord Chancellor of Ireland, Lord Rosse, and other eminent gentlemen hav-

ing been Members of the Commission. The Commissioners stated that the University of Dublin possessed, under the 2 Vict. c. 23—which was but a continuation of former enactments—certain privileges with regard to the duty on paper, and that the college was entitled to a drawback upon all Latin and Greek books, as well as religious books, printed by the University. The Commissioners added that—

“If the duty upon paper should continue in force that privilege ought to be extended to all books published by the University for educational purposes, and that the University had been very liberal in encouraging the printing of educational books by defraying a large portion of the expense from their funds.”

He (Mr. Hamilton) was sorry to say that it depended upon the Chancellor of the Exchequer whether they could persevere with the Bill; but he might state that he should certainly be very glad to see the privilege of the University referred to by the hon. Gentleman extended to all books connected with education.

SUPPLY—MISCELLANEOUS ESTIMATES.

House in Committee; Mr. FITZROY in the chair.

(1.) Motion made, and Question proposed—

“That a sum, not exceeding £100,000, be granted to Her Majesty, to defray the Charge of Civil Contingencies, to the 31st day of March 1857.”

SIR FRANCIS BARING moved to reduce the Vote to £30,000. As the House was aware, the Vote for civil contingencies might be divided into two parts—payment of certain items of expenditure, which were essentially uncertain, and therefore could not be brought into estimate, and some other small payments, a return of which for the past year was now on the table of the House; and also an amount which was employed in making advances to different departments. It frequently happened that in the different departments of the civil service, works unexpectedly exceeded the sums voted for them; and, in order to avoid the inconvenience which would attend on their being stopped, recourse was had to the civil contingencies. He did not argue that the £100,000 was an unreasonable amount for these civil contingencies; but he would show that a much larger sum was, in fact, at the disposal of the Government, and he wished the Committee to be aware what the Government had already in hand to meet claims on this very account. He did not

know what amount had gone from the civil contingencies in the shape of advances. Advances were not an ultimate expenditure. What were outgoings one year became revenue when the amount was repaid; in point of fact, they added the same quantity to each side of the equation; and the sides balanced each other; and the repayments of the advances of last year would be pretty nearly sufficient to meet those of the current year. The Votes of the civil contingencies were not like the Votes of the great services; they were not confined to the year for which they were taken, and if there was a surplus in the Vote over the expenditure, it did not go back, as a matter of course, to the Exchequer, as it did in the great services; but it accumulated, and was available for the service of the next year. These accumulations existed in the Treasury, as lately as Monday last, to the extent of £100,000. It was now proposed to take a Vote for another £100,000, making the sum at the disposal of the Government £200,000; and, because he thought this sum unnecessarily large, he proposed to reduce it. During the last six years (and the case would be still stronger if he went further back) there had been Votes for the civil contingencies, of £100,000 in each year. In 1851, the actual expenditure was £65,371; in 1851-2 it was £89,675; in 1852-3, £79,825; in 1853-4, about £70,000; in 1854-5, £72,118; and this last year it was £88,891. While, then, the Committee had voted £100,000 a year each year during the last six years, the highest expenditure had been under £90,000; the lowest had been as low as £65,000; and the average expenditure—the actual expenditure—during the six years, had been £77,040, or, putting it loosely, the expenditure had been under £80,000. Inasmuch, then, as on Monday last there was in the Exchequer £100,000 to meet an expenditure averaging less than £80,000, the Government could well afford to lose the £70,000 which he proposed to strike off, and he should then leave them £130,000 to meet an expenditure which in six years had never amounted to £90,000. He thought he had left an ample margin to meet any possible chance of excess. [Mr. WILSON: The balance was made up to the 31st of March.] He knew that; but he was now arguing on the facts as they stood on Monday last. The Secretary of the Treasury had in-

formed him, since he had given his notice, that he had given directions that £60,000 should be returned to the Exchequer as "savings." He was very glad of it; it was accomplishing his (Sir F. Baring's) object in another way; it narrowed the differences between them; and he should in consequence try to effect his reduction of £70,000, by moving a reduction of £10,000 only. He was at a loss to know what his right hon. Friend wanted with the £140,000 which he proposed to take by this Vote, added to the surplus in hand, when the expenditure had never come up to £90,000 a year? There had, it was true, been the illuminations; but the surplus of £50,000 was unnecessarily large for that purpose. Last year the expenditure was £80,000, and he felt sure that the public would be safe with £130,000 to meet the civil contingencies. Besides the unexpended balances he had alluded to, there were other means by which the funds for civil contingencies were increased. The civil contingencies made loans to the other departments. He admitted that it was a great convenience, and that it was right that the Government should have a fund with which to meet any unexpended excess of expenditure by making advances to be subsequently repaid. But, on the other hand, it would be most inconvenient to carry this system an inch further than was absolutely necessary. The case was similar to allowances given to young men in private life. When an allowance was made to a young gentleman, and it was adhered to pretty strictly, he took care not to exceed the amount; but let any one be liberal, and give that young man not only his allowance, but money to meet any excess, and they must not be surprised if there always existed an excess. So, in national matters: if the Treasury would generously and kindly give, they were pretty sure of numerous and repeated applications; if it only made advances under real difficulties, when parties got into scrapes, they would be very slow to get into them; they would be careful not to get into a mess, if the Treasury would not assist them out of it. In the last six years the Committee had voted £600,000, the Treasury had accounted for £462,000 odd, leaving an excess of the amounts voted over the sums expended of £137,000. That ought to be in the Exchequer. He did not believe it was. £100,000 was probably the excess

in the Exchequer; and there consequently remained £37,000 unaccounted for, which he apprehended must be either in the hands of the Paymaster General, or else it had been advanced to different departments, of which the Committee knew nothing. He therefore thought that even if by some remarkable accident the amount to which he proposed to limit the Vote for the civil contingencies should be found to be insufficient for the requirements of the year, if the amount required should be far larger than ever it had been during the last six years, the Treasury might supply the deficiency by calling for the repayment of the advances. The information on which the Vote was asked was not sufficient. The Committee had not a statement of the balance in the Exchequer, they had not the amount in the Pay Office, they had not the amount of the sums loaned out; and without those ingredients it was quite impossible to decide on the amount which ought to be voted. His own impression was that the Vote should be taken differently, that they ought to fix a sum which they deemed reasonable; and at the end of the year, if the Government had spent £80,000 let the Committee Vote £80,000 to replace it; but, at any rate, let the Committee know the amount in hand, let them know also what was the amount loaned out in the different Departments. He regarded this as a very important question. He did not see why the amount in hand should be kept from the knowledge of the Committee, or why the amount loaned, should not be known. He saw no occasion for secrecy. He should move to reduce the Vote by £10,000.

Motion made, and Question proposed—

“That a sum, not exceeding £90,000, be granted to Her Majesty, to defray the Charge of Civil Contingencies, to the 31st day of March, 1857.”

Mr. WILSON concurred in the observations of the right hon. Gentleman, as to the very unsatisfactory way in which those accounts had been heretofore kept. The present Board of Treasury was not, however, responsible. If the right hon. Gentleman referred back for a number of years he would find that the whole tendency of the Treasury was to reduce the Vote, and the charges on it. His attention some time since had been called to this Vote, and to the unsatisfactory mode in which it stood, in regard to the audit of accounts. Those accounts had been the subject of much inquiry, and it was considered that

Sir Francis Baring

they should have been made much more intelligible and satisfactory. If the right hon. Gentleman would but refer to the time when he was Chancellor of the Exchequer, he would find that the sum voted for civil contingencies had been considerably more than double the present amount. If it were possible to estimate the actual sums required there would probably be no occasion to take this Vote for civil contingencies; but since the most unforeseen difficulties were to be provided against, they were obliged to take a Vote considerably in excess of the amount that would be required. It, however, by no means followed that, if they took a Vote larger than was required, all the money should be expended. As to the nature of the advances made he had no objection to lay a statement upon the subject on the table of the House; there were some, however, which it would not be altogether expedient to publish until some little time after they were made. He would, for example, take one of those advances that was necessary for the Government, with a view of showing the difficulty of providing in time for them. The Government were applied to to advance the funds necessary for the trial of experiments in regard to a new gun, called the Lancaster gun; £20,000 was advanced for that purpose. During those experiments it would be obviously inconvenient to lay such accounts before the House. Those advances were, however, never made for the purpose of taking out the service of the year; they were made for services that could not have been foreseen at the time the Vote was submitted to Parliament. There was an advance of £47,000 made to the courts of law. The County Court Act contemplated that those tribunals should be self-supporting, upon the presumption that the fees received would be sufficient to pay the salaries of the Judges and other necessary expenses. The Act, however, provided, that in the event of those fees falling short of the amount necessary for those objects, the Exchequer should be charged with the payment of the amount deficient, which it had accordingly been obliged from time to time to make good. There was at the present time a Bill in the other House which proposed that the charge of those courts should in future be placed on the Consolidated Fund. There was also the Court of Chancery in Ireland, which involved a charge on the civil contingencies

of £20,000. The suitors' fund fell short of the amount necessary to pay the Judges' salaries and the other expenses; the excess was made a charge upon the Exchequer, and upon that score there was an advance made of £28,000. In various services of that kind advances out of the Treasury were made to the amount of £158,000. Now, although a great portion of this money would be repaid, there would be other services of a similar kind to absorb the whole Vote. The fluctuating nature of the charges was also a matter of great difficulty to provide for. The Vote last year, for example, was £100,000; but the whole advances to the public service amounted to £246,000. In the year before the advances were £227,000, and in the prior year they were only £83,000. The only instance in which any repayment had as yet been made in respect to these advances was £60,000. He had no hesitation in saying, on examining the accounts of the Comptroller of the Exchequer, that there was a balance in the Exchequer of about £100,000. He had had a Dr. and Cr. account of these advances and repayments, showing the balances, for the last ten years drawn up. This account showed every shilling that had been advanced and repaid; and it appeared that, without including the Irish advances, the whole amount of the outstanding balance due was only £1,900. He had also given orders that there shall be made with the Estimates of each year, not only an account of the expenditure of civil contingencies, but also a cash account, showing the amount of the advances repaid; and in cases where it was not desirable to mention the names of the parties in question, the particular department to which the advances were made should be mentioned. Under these circumstances he trusted that the right hon. Gentleman would not deem it necessary to divide the Committee upon his Amendment.

MR. W. WILLIAMS said, it appeared that the civil contingencies accounts were in an unsatisfactory state. He should like to know with whom the fault rested. The present Government had been in office for nearly three years.

MR. WILSON denied that he stated the civil contingencies accounts were in an unsatisfactory state. On the contrary, he thought that the civil contingencies accounts were never in a more satisfactory state. From the years 1830 to 1840 the accounts were so confused it was quite im-

possible to make anything of them. He did not mean to blame any persons for this state of things, because he knew that the difficulties which had arisen during that period were calculated to complicate those accounts.

MR. W. WILLIAMS: Well, then, the system was altogether defective, and he should like to know with what Government the blame rested. He had no idea that the abuse was so great. This seemed to be a department for lending money; and he was afraid there were a good many bad debts made. From what source was the money lent to the Irish Court of Chancery to be repaid? They now found out that they had been voting increases to the salaries of the Judges of the county courts, under the false pretence that the fees of those courts paid their expenses. For several of the items included in this sum there ought to have been distinct and separate Votes of the House. He objected to the whole system. More than one-half the items in last year's expenditure might have been brought before the Committee last year. He would like to know, was the Commission appointed to settle the boundary between Turkey and Persia to be continued, or was General Williams to be succeeded by another Commissioner? Several items for the travelling expenses of official persons—one amounting to £364 10s. 9d.—seemed to him to be exorbitant. There was an item of £1,700 in the case of the Commission connected with the affairs of the University of Oxford. Now, the revenues of the University amounted to about £150,000 a year, and he wanted to know why the public should pay the £1,700?

MR. AYSHFORD WISE said, it was a consolation to him that the very objections which he had proposed to make, had been made by one, who, from his experience as a Chancellor of the Exchequer, was so much better able than himself to cope with the difficulties of finance. The Secretary of the Treasury had cleared away some of the mist that surrounded the Vote, and, indeed, had rendered unnecessary the remarks which he intended to offer, by the admission that the accounts were in an unsatisfactory state. The right hon. Member for Portsmouth had gone back six years, but, taking the Votes and expenditure for ten years, he found that the first amounted to a £1,000,000, and the second to £794,549, leaving a balance of £205,451 in favour of the Treasury. The explanation given was not satisfac-

tory, as the leaving this large sum loose in the waistcoat pocket of the Secretary of the Treasury encouraged loans and advances to the various departments and much unjustifiable expenditure, which had not been sanctioned by the House. A great abuse had sprung up of late in the multiplication of Commissions, and no less a sum than £75,000 had been expended in that manner during the last three years. Commissions were now appointed on all imaginary subjects; which was a system that ought to be discouraged. There were in this Vote a great number of charges, such as those for permanent Commissions, like the Fine Arts Commission, which were not of an accidental character, and therefore did not properly belong to such a Vote as this. He would call the attention of the Committee to the effect of this Vote for contingencies on the expenditure for the Diplomatic Establishment. By 2 & 3 Wm. IV. c. 116, the Government was restricted to £180,000 a year for salaries, pensions, and expenses, but that limit was indirectly avoided and continually transgressed by these Votes for contingencies. During the last ten years, in addition to the salaries and pensions, there had been paid £52,973 in outfits, £91,915 in special missions, £100,000 for house rent, and £208,099 for miscellaneous expenses. During the last twenty-five years the extra disbursements had amounted to £524,545, and the outfit to £157,283. It was commonly supposed that the Paris Embassy cost about £10,000 a year, but the expenditure was not less than £19,000, besides the maintenance of the Embassy House and the interest of the £87,000 that had been expended on that building. If we were to judge of the future by the past, he recommended the Committee to look with an eye of distrust on this Vote for contingencies, as one that had a tendency to increase rather than to decrease the public expenditure, and had proved in no way conducive to economy.

SIR HENRY WILLOUGHBY said, that the sums voted under the head of "civil contingencies" during the last six years amounted in the aggregate to £600,000, and of that sum £457,000 had been expended. What had become of the £143,000 balance? He would like to know why the Government set down the balance as £100,000, when it was in reality £143,000? The Committee had been that evening informed that the department to which this contingency

money was voted was in the habit of lending money. Now, was it to be distinctly understood that all those loan advances were for the future to be set out on a paper to be laid upon the table of the House? The Committee were going to Vote £100,000 for civil contingencies, while probably only £75,000 would be the total sum expended. At what time of year were they to have the annual expenditure for contingencies placed upon the table of the House? [Mr. Wilson: When the Estimates are presented.] The hon. Gentleman the Secretary for the Treasury had stated that there was a cash balance of only £60,000 last year; but he (Sir H. Willoughby) thought that there should be a sum of £80,000 from last year; and that the gross balance on the six years was £143,000. Were the fireworks for the peace, and the expense of the mission to St. Petersburg, to be charged to "civil contingencies?"

CAPTAIN STUART asked for an explanation of an item of £5,000, "an advance to J. B. Fearon, on account of bills of costs as solicitor to the Attorney General in suits relating to charities?" This was a large sum for the country to be called upon to pay for such a purpose.

MR. KINNAIRD observed on the absurdity of charging against the civil contingencies the expense of making an experiment with a Lancaster gun. The item ought surely to have been inserted in the Ordnance Estimates. The practice of introducing into the Estimates of one department entries that properly belonged to those of another was to be deprecated, inasmuch as it wore the resemblance of an attempt to pass by a side-wind grants which, if presented in a regular manner, might not easily obtain the sanction of Parliament.

MR. SPOONER wished to ask whether any application had been made to the Treasury by the Ordnance Department for money to make experiments in Belgium, or to send workmen over to that country to make experiments? He wished, in fact, to know whether experiments had been made in Belgium; what those experiments were; whether the Ordnance Department had sent over workmen to make them; and whether advances for such experiments had been made by the Treasury?

MR. BLACKBURN found in this estimate an item of £105 for preparing the "Oxford University Reform Bill," to R. J. Phillimore. Then there was an item of

Mr. Ayshford Wise

£48 16s. 4d. "for revoking the office of Master General of the Ordnance, and vesting the civil administration of the Army and Ordnance in Lord Panmure;" and another of £39 14s. "for appointing the Duke of Argyll Postmaster General." Was it usual for the public to pay for the appointment of public officers, or were those two cases exceptional? There was another item which he would wish to hear explained—a sum of £1,500 "to the Hon. J. Plunket, Second Commissioner of Bankrupts in Ireland, on account of salary for one year." Was not that salary a fixed annual amount? If so, why should it be put under the head of "civil contingencies," instead of under "law expenses?"

MR. WILSON would, in replying to the several questions put by hon. Members, commence with those asked by the hon. Member who had just sat down. The item of £105 to which that hon. Member had alluded was a sum paid to Mr. R. J. Phillimore for drawing the Oxford University Bill. With regard to the items paid on the appointments of Lord Panmure and the Duke of Argyll, the rule was that the person who accepted an official office paid for his own patent; but if a person was transferred from one office to another, he was not called upon to defray the cost of the second patent. In this latter case the public paid for the patent. With respect to the £1,500 for the Second Commissioner of Bankrupts in Ireland, there was no provision by Act of Parliament for granting a salary to that officer, and therefore his remuneration was included under the head of civil contingencies. However, in the Bill now before the House that would be remedied; the necessary provision would be made for the salary of the additional Commissioner, and the charge would henceforth be included in the estimates in the usual way. As to the inquiry made by the hon. Member for Warwickshire (Mr. Spooner), no payment of any kind had been made for sending workmen to Belgium; nor had any application been made by the Ordnance Department for an advance for any such purpose. He had made inquiry on the subject, and could assure the hon. Member that there was no truth in the report that the Ordnance had sent any workmen to that country. With regard to the experiments with the Lancaster gun, his hon. Friend (Mr. Kinnaird) must have misunderstood what he had said on that subject. What he had intended to

convey was, that before such experiments were made it would not be judicious of the Government to come down to the House and ask for a Vote for those experiments. Was it not obvious that in such cases the House should trust to the Executive? Otherwise the country might obtain no benefit from experiments of the kind referred to. The whole of the advances made from the Vote for civil contingencies had to be brought under the review of the House and voted before they could be repaid to the account from which they were originally taken. The hon. Baronet opposite (Sir H. Willoughby) said he found in the last six years an apparent discrepancy of £143,000 between the sum expended and that voted; that £100,000 remained in the Exchequer in March last; but no account was given of the balance of £43,000. The fact was, that the advances made to the different services last year and the year before exceeded those of preceding years, and the amount of reimbursements now due to the account of civil contingencies was not £143,000, but £158,000. In regard to the cost of the fireworks for the peace rejoicings, the Chancellor of the Exchequer had already explained that it was not deemed worth while to propose a separate estimate for this item of expense, and therefore it was included in the Vote for civil contingencies; and the expenses of the mission to St. Petersburg, being an unusual payment, properly came under that head. As to the sums alluded to by the hon. Member for Lambeth (Mr. Williams) as having been paid for the outfit of our Ambassadors abroad, and for "special missions," it was quite obvious that no estimate could be formed of such expenses. The sum of £364 10s. travelling expenses, referred to by that hon. Member, was for the expenses incurred by Governor Sir W. Denison for passage of himself and family from Hobart Town to Sydney. There was a fixed allowance to colonial Governors for expenses of that nature, regulated by a scale prescribed by Colonial Office. As to the sums paid for Commissions, the University Commissioners had been appointed under the University Act, and the payments made were to the secretaries, and on account of general charges, but the Commissioners themselves were not paid. The sum paid on account of the settlement of the boundary between Turkey and Persia was a payment of last and not of this year. As to the question of the hon. and gallant Captain (Captain

Stuart), his hon. and learned Friend the Attorney General was not then present, but he would at another time give an explanation of that item of £5,000.

SIR FRANCIS BARING did not intend to give the Committee the trouble to divide, but in withdrawing his Motion he must say, that he was not satisfied with his hon. Friend's explanation. He should be glad to know from his hon. Friend, if he was prepared to give at once a statement of the advances made, and to produce the account which he said was so satisfactory. There was a peculiarity in the phrase, used by his hon. Friend, that advances were not made from the civil contingencies to eke out Votes of which estimates had been given. Take the case of the Ordnance. The Ordnance was under strict rule that every sixpence of expenditure should be audited, and that entire control should be exercised over its expenditure. He did not quarrel with the expenditure, but what was the fact? The Ordnance had been expending in experiments more than Parliament had voted, which sums were unaudited and uncontrolled. That was the very example of all others to show that the civil contingencies were in an unsatisfactory state. If his hon. Friend could give the House the paper he had spoken of, he would be satisfied with the £60,000 he had got, and would not press the subject further.

MR. LLOYD DAVIES wished to know from the Secretary to the Treasury, whether the payment of 100 guineas to the hon. Member for Tavistock (Mr. R. Phillimore) for assisting in the preparation of the Oxford University Bill was made whilst that hon. and learned Gentleman was a Member of that House? He did not mean to say that the amount was more than adequate to the services rendered by the hon. Gentleman, but the question was, if it did not involve constitutional considerations, and affect the character of the House itself. He thought it desirable that an explanation should be given upon the subject.

MR. MOWBRAY wished to know whether any further sum would be required for the fireworks exhibited on the 29th ult. beyond the £8,000 which had been stated by the Chancellor of the Exchequer as the estimated expenditure?

MR. WILSON said, that as the accounts for the fireworks had not yet been received, he could not state precisely what would be the expenditure. Some expense had, of course, been incurred in the preparation of

Mr. Wilson

the fireworks by the department at Woolwich; but he believed the amount named by the Chancellor of the Exchequer on a former occasion would be the sum required as an extra charge on the public; but it should be recollected that some part of the expense would be borne by the Ordnance Department under which they had been prepared, and it was merely the extraneous charges which would be defrayed out of the civil contingencies. With respect to the hon. and learned Gentleman the Member for Tavistock, he believed that he was a Member of the House when he received the payment referred to by the hon. Gentleman opposite. With regard to the observations of the right hon. Baronet the Member for Portsmouth, he had to state that no advances had been made to eke out any Vote granted by Parliament for specific purposes, but that the advances from the civil contingencies were always made for services and purposes which could not be foreseen, and for which, therefore, no provision could be made. The case of the Ordnance experiments was of this nature. With regard to the accounts which he was prepared to lay before the House, they had not been prepared in consequence of anything that had been either said or done by the right hon. Baronet, because the attention of the Treasury had been for a long period directed to the subject, with the view of presenting a clear and satisfactory statement of the expenditure under this head. He would in a few days be able to lay them on the table of the House. They would embrace the total expenditure, distinguishing every advance and repayment made for the last fifteen years, and show the balance in the Exchequer.

MR. LLOYD DAVIES thought the answer which had been given to his question by the hon. Secretary to the Treasury was not at all satisfactory. He wished to know whether the payment to the hon. and learned Member for Tavistock had been sanctioned by the Government, and he thought it necessary that there should be a clear understanding on the subject. If the payment had been made inadvertently, he had nothing more to say about the matter, but a constitutional principle of vital importance was involved, for if Members of the House received such payments it was impossible to doubt that their freedom of action must be in some degree influenced. He did not bring forward this question with any special reference to the

hon. and learned Member for Tavistock, but simply upon public grounds.

MR. WILSON said, it was not for the Treasury to determine the constitutional question to which the hon. Gentleman had referred. A demand was made upon the Treasury for a sum for the performance of certain duties, and it was no part of the duty of the Treasury to inquire whether the person who performed such duties was entitled to perform them or not.

MR. GLADSTONE submitted that the question which been put by the hon. Member for Cardigan was one which ought to receive the most satisfactory answer that could be given. He (Mr. Gladstone) had thought this matter had been settled long ago, and he did not know how it happened that it was now brought to the notice of the Committee. The hon. Member for Cardigan deemed it a dangerous practice to employ Members of that House professionally in the preparation of Bills, and he (Mr. Gladstone) thought the hon. Gentleman was quite justified in calling attention to the payment to which he had referred. It was undoubtedly expedient and necessary that the attention of the House should be carefully fixed upon payments of this nature, and that any tendency to make a practice of such payments should be discouraged. It was right that the House should require to be informed of the special reasons which had led to the payment in this particular instance, and, speaking from recollection, and therefore not with perfect confidence, he (Mr. Gladstone) would endeavour to afford some explanation. The payment in question had reference to the drawing of the Oxford University Bill. He was himself much concerned, but of course not professionally or officially, in the preparation of materials for that measure. His hon. and learned Friend the Solicitor General was the person who, on the part of the Government, drew the Bill, that was to say, who superintended and was responsible for its drawing; and officially it was under his direction that the hon. and learned Member for Tavistock was employed in the preparation of the measure. He (Mr. Gladstone) did not exempt himself from responsibility on that score, because he was perfectly cognisant of the arrangement, and, while he admitted that special reasons only ought to justify such an arrangement, he fully approved it at the time. The case of the Oxford University and its colleges was a most peculiar case; and although it would have been

perfectly easy to find numbers of lawyers who were capable of drawing bills upon almost any other subject, there were few who possessed such knowledge of the history of the foundations of the Universities and Colleges as to be capable of drawing a Bill with reference to that University. It was on that ground, and because it appeared both to his hon. and learned Friend and himself that the hon. and learned Member for Tavistock was conversant with such subjects, and able to render valuable assistance which they did not think it practicable to find elsewhere, that his professional services were employed in drawing up the Bill and putting it into a formal and legal shape. He thanked the hon. Gentleman opposite for drawing attention to the subject; for there could be no doubt that the general rule was adverse to the employment of Members of the House for such purposes. But the hon. Gentleman was not to suppose that this was the first time such a thing had taken place. On the contrary, cases had occurred from time to time in which Members had been so employed, and he perfectly agreed with the hon. Gentleman in thinking that it was one of those matters which the House should be careful not to overlook.

LORD HOTHAM: The Secretary to the Treasury had observed that the Chancellor of the Exchequer, in stating that the cost of the fireworks would not exceed £8,000 must be understood as not including in that amount the cost incurred at Woolwich. Now that was not a strictly accurate representation of the case, and he (Lord Hotham) was competent to speak upon the point, because he happened to be the person who had addressed the interrogatory to the right hon. Gentleman on the subject. The right hon. Gentleman having previously stated that the expense would amount to £8,000, he (Lord Hotham), on a subsequent day, asked him if he intended to lay an estimate of the contemplated expenditure incurred in the preparations made in London as those which were being incurred in the Royal Arsenal at Woolwich. The answer of the right hon. Gentleman was that the Government did not contemplate laying an estimate upon the table; that it was intended to pay the expense out of the civil contingencies, and he added emphatically that he was informed, and believed, that the expenditure would not exceed £8,000. Now an answer given to an inquiry made in that way, referring to the expenditure in London and at Wool-

wich, must surely be taken by any man of plain understanding, to mean that the total expense would not exceed the sum mentioned by the right hon. Gentleman; and he confessed that, however surprised he might have been at hearing that the cost would amount to no more, he certainly did consider and had so stated to several hon. Gentlemen in the House, that the right hon. Gentleman had pledged himself as solemnly to the House as one gentleman could pledge himself to another upon any subject, that £8,000 would cover the whole of the expense that would be incurred on the occasion.

Motion by leave *withdrawn*.

Original question put and *agreed to*.

(2.) Motion made, and Question proposed—

“That a sum, not exceeding £151,213, be granted to Her Majesty, to complete the sum necessary to defray the Charge for Public Education in Great Britain, to the 31st day of March, 1857.”

SIR GEORGE GREY: Sir, I rise to propose the annual Vote for public education—£151,213, of which £300,000 has been already voted on account; but, as there is a very full explanatory minute attached to the estimate, containing paragraphs corresponding to each particular item, it will not be necessary that I should give any lengthened explanation to the House. At the same time, as the grant proposed to be taken this year is greater than in any former year, and exceeds by £54,292 the sum voted last year, and as a proposal is to be made by an hon. Member to reduce the amount, I will take the liberty of calling the attention of the House to the past expenditure on account of education, to the appropriation of the funds placed at the disposal of the Committee of Privy Council by Parliament, and particularly to the grounds on which the increase of this year has taken place. I am the more desirous to do so as I am anxious to remove an impression which I am afraid prevails in some quarters that, because there are difficulties in establishing throughout the country a general system of combined education, therefore nothing can be done by Parliament in aid of the efforts made for promoting the great object of popular education throughout the country. Whatever opinions we may entertain as to the expediency of a general system of education—however much we may regret the failure of those attempts which have been made from time to time

by men of influence to secure that important object, it would be wrong on our part if we did not acknowledge that, these attempts having failed, very important and very beneficial results have been attained by means of these Parliamentary grants that are placed at the disposal of the Committee of Privy Council, and which are appropriated by that Committee in accordance with certain Minutes regulating the principle of appropriation. Since the year 1839 a sum rather exceeding £2,000,000 has been placed by Parliament, by annual grant, in the hands of the Committee of Privy Council for the promotion of popular education, and that sum has been expended in aid of those voluntary efforts to which allusion has been made, and very justly made, in previous debates on the subject of education—efforts that cannot be too highly estimated and commended, but which, I believe, have failed in accomplishing all the objects sought to be attained by them, and which would not have been attended with the success which has accompanied them had they not been aided by the grants which Parliament has made. It is a fact not unworthy of notice, that, during the first ten years, the amount placed annually at the disposal of the Committee was never wholly expended. There remained annually an accumulated balance in the hands of the Committee, the applications for money not having exhausted the amount. But from that time the reverse has been the case, and the expenditure has annually exceeded the sum granted by Parliament, the deficit being supplied by the unappropriated balances of the sums provided by Parliament in the previous years. The inference we are to draw from this is, that the discussions from time to time, either on Motions submitted to this House or on the considerations of the annual Estimates, have given a great impulse to the efforts made to promote education, and that there has been a growing and rapidly increasing appreciation of the benefits derived from the grants which have been made by Parliament in aid of the voluntary efforts to promote that important object. In 1839 the grant was £30,000; last year it was £396,921; and this year the amount proposed is £451,213, of which £200,000 has been already voted by the House. To show the progressive increase of the expenditure, I have here a comparative table, showing the amount expended in each year

Lord Hotham

Farnham, E. B.
Feilden, Major
Ferguson, Col.
Ferguson, J.
Forster, J.
Fortescue, C. S.
Freestun, Col.
Glyn, G. C.
Gower, hon. F. L.
Greene, T.
Gregson, S.
Grenfell, C. W.
Grey, rt. hon. Sir G.
Grey, R. W..
Grosvenor, Lord R.
Gurney, J. H.
Gwyn, H.
Hall, rt. hon. Sir B.
Hankey, T.
Hardy, G.
Hastie, Archibald
Hayes, Sir E.
Headlam, T. E.
Herbert, hon. P. E.
Heywood, J.
Horsman, rt. hon. E.
Howard, hon. C. W. G.
Hutt, W.
Ingham, R.
Ingram, H.
Irton, S.
Jones, D.
Kinnaid, hon. A. F.
Kirk, W.
Labouchere, rt. hon. H.
Langton, H. G.
Lemon, Sir C.
Lewis, rt. hon. Sir G. C.
Lindsay, hon. Col.
Littleton, hon. E. R.
Lockhart, A. E.
Lowe, rt. hon. R.
MacGregor, John
Magan, W. H.
Malins, R.
Marjoribanks, D. C.
Martin, J.
Martin, P. W.
Massey, W. N.
Milnes, R. M.
Moffatt, G.
Monck, Visct.
Moncreiff, rt. hon. J.
Mostyn, hn. T. E. M. L.
Mowatt, F.

Mowbray, J. R.
Mullings, J. R.
Neeld, J.
Nisbet, R. P.
Norreys, Sir D. J.
Osborne, R.
Paget, Lord A.
Palmerston, Visct.
Patten, Col. W.
Peel, Sir R.
Peel, F.
Pellatt, A.
Pinney, Col.
Ponsonby, hon. A. G. J.
Portman, hon. W. H. B.
Price, W. P.
Pugh, D.
Ramsden, Sir J. W.
Reed, Maj. J. H.
Ricardo, S.
Rich, H.
Ridley, G.
Robertson, P. F.
Rolt, P.
Russell, F. W.
Sandon, Visct.
Sawle, C. B. G.
Seymour, H. D.
Seymour, W. D.
Shelley, Sir J. V.
Smith, M. T.
Smith, rt. hon. R. V.
Spooner, R.
Stanley, Lord
Stuart, Capt.
Thompson, G.
Thornely, T.
Tynite, Col. C. J. K.
Villiers, rt. hon. C. P.
Walcott, Adm.
Walpole, rt. hon. S. H.
Watkins, Col. L.
Wigram, L. T.
Wilkinson, W. A.
Willcox, B. M'G.
Williams, W.
Williams, Sir W. F.
Wilson, J.
Wood, rt. hon. Sir C.
Wrightson, W. B.
Wynn, Sir W. W.
Wyvill, M.

TELLERS.

Hayter, rt. hon. W. G.
Mulgrave, Earl of

List of the NOES.

Annealey, Earl of
Beresford, rt. hon. W.
Berkeley, hon. H. F.
Brady, J.
Bramley-Moore, J.
Bramston, T. W.
Bruce, H. A.
Burrell, Sir C. M.
Clinton, Lord R.
Codrington, Sir W.
Coles, H. B.
Conolly, T.
Dalkeith, Earl of
Deedes, W.
Disraeli, rt. hon. B.
Duncombe, T.
Duncombe, hon. W. E.
Elmley, Visct.
FitzGerald, Sir J.
Fitzgerald, W. R. S.
Fox, W. J.
Fuller, A. E.
Gaskell, J. M.
Gladstone, rt. hon. W.
Graham, rt. hon. Sir J.
Graham, Lord M. W.
Grogan, E.
Hadfield, G.
Hale, R. B.
Hall, Gen.
Hamilton, G. A.
Hamilton, J. H.

Henley, rt. hon. J. W.
Herbert, Sir T.
Hildyard, R. C.
Hume, W. F.
Jolliffe, Sir W. G. H.
Kennedy, T.
Kershaw, J.
King, hon. P. J. I.
Knightley, R.
Leslie, C. P.
Lowther, hon. Col.
Lowther, Capt.
Lushington, C. M.
MacGregor, James
Meux, Sir H.
Morgan, O.
Morris, D.
Mundy, W.
Murrough, J. P.
Napier, rt. hon. J.
Newdegate, C. N.
Noel, hon. G. J.

North, Col.
Palmer, R.
Pechell, Sir G. B.
Peel, Gen.
Pilkington, J.
Powlett, Lord W.
Repton, G. W. J.
Roebuck, J. A.
Scholefield, W.
Stafford, A.
Stracey, Sir H. J.
Taylor, Col.
Tite, W.
Tomline, G.
Vance, J.
Vernon, L. V.
Willoughby, Sir H.
Yorke, hon. E. T.

TELLERS.

Cecil, Lord
Heathcote, Sir W.

Main Question put, and *agreed to*.

Bill read 2^o, and *committed for To-morrow* at Twelve o'clock.

MR. GLADSTONE said, that Members sitting below the gangway might just as well be out of the House as in it after a division. They could hear nothing, no matter what efforts they might make. If he had heard the arrangement to take the Committee on the Bill to-morrow at twelve o'clock, he certainly should have represented that it was very desirable opportunity should be afforded of giving notice of Amendments, and he apprehended the mere statement of objection would have been conclusive. As the matter now stood, he did not wish to give trouble, but he begged to represent the case to his noble Friend at the head of the Government.

MR. HENLEY said, he hoped the noble Lord would, at all events, reconsider the appointment for twelve o'clock. Members hardly received the Votes by that hour.

MR. GLADSTONE said, no notices of Amendment could be given.

VISCOUNT PALMERSTON said, there was other business at six o'clock to-morrow evening, and it would be very uncertain at what time the Committee on the Bill would commence if it were postponed to the evening sitting. He thought the numerous attendance that morning was sufficient proof that they might consider the Amendments at twelve o'clock. The right hon. Gentlemen might move what Amendments they pleased, and the House would, of course, not object on the ground that they were moved without notice.

The House adjourned at Six o'clock.

HOUSE OF LORDS,

Thursday, July 24, 1856.

MINUTES.] PUBLIC BILLS.—3^d Income and Land Taxes; Stamp Duties; Racehorse Duty; Coast-guard Service; Corrupt Practices Prevention; General Board of Health Continuance; Militia Pay; Cursitor Baron of the Exchequer; Lunatic Asylums Act Amendment; Deeds (Scotland); Judicial Procedure, &c. (Scotland); Criminal Justice; Poor Law Amendment (Scotland); Court of Appeal in Chancery (Ireland).

THE MUTINY AT NENAGH—QUESTION.

THE MARQUESS OF CLANRICARDE asked the Secretary for War what course the Government intended to pursue for the purpose of bringing to justice the mutineers at Nenagh—whether they proposed to have them punished under the civil or military law? He would add, that he felt it his duty to bear testimony to the promptitude, energy, and decision which were shown by General Chatterton, the general commanding the district, in putting down the mutiny.

LORD PANMURE said, he would state at once that the mutiny at Nenagh would be dealt with by the Government with the utmost firmness. Their Lordships were aware that in the course of the mutiny various outrages were committed, including one case of murder, and three serious cases of assault. According to the regulations observed in the army, as well as in civil life, the accused parties in those cases would be delivered over to the civil tribunals, to be proceeded against by them. He was happy to state that he had received from the authorities in Ireland information which led him to believe that the ring-leaders in the mutiny would be identified and speedily brought to justice. Those offenders who had been guilty of purely military offences would be dealt with by the military authorities. He thought it right to bear testimony to the admirable behaviour of the whole of the rest of the Irish militia, and he was assured by the Secretary for Ireland that such of the Irish militia as had returned home were perfectly contented with the terms on which they had been dismissed. He wished, also, to bear testimony to the energy and zeal of General Chatterton, in the discharge of the grave and responsible duties which were entrusted to him on the occasion of this unfortunate occurrence.

THE EARL OF ELLENBOROUGH said, he had that morning been examining some

papers in reference to the militia, which enabled him to confirm the terms of praise in which the noble Lord the Secretary for War had spoken of the Irish militia. He found that, while the desertions, or, more properly speaking, the absences from muster had been 23½ per cent in the English militia and 20 per cent in the Scotch militia, they had been less than 5 per cent in the Irish militia. In the same manner, while the enlistments into the regular army were 7½ per cent from the English militia and 14½ from the Scotch, they had been 21 per cent from the Irish militia. So that the Irish militia was incomparably the most valuable militia force of the three.

THE LEGION OF HONOUR—DISTRIBUTION TO THE ENGLISH ARMY—QUESTION.

LORD CALTHORPE said, he wished to ask the Secretary for War a question in reference to the recent distribution of the Legion of Honour among the officers of the English army. He had recently read a list of those officers, and he was surprised to find that not one of the aides-de-camp of the late Lord Raglan was included in it. After the battle of Inkerman, the Emperor of the French notified to Lord Raglan his wish to confer on him the highest rank of the Legion of Honour, and to bestow decorations on the officers of his staff. Lord Raglan, about the end of November or the beginning of December, wrote to the English Government to obtain their permission to accept these honours, but he obtained no answer until about five weeks before his death—an interval of six months. After the death of Lord Raglan, Marshal Pelissier intimated to the French Government that it would be paying a just and proper respect to the memory of the noble Lord if they were to bestow some decorations on his staff. This suggestion was approved by the Emperor, and it was communicated to the English Government, but nothing more had been heard of the matter, until the general distribution of the French honours took place, when it was thought that the claims of Lord Raglan's staff would not be overlooked. When it was considered that the French Government had intimated their wish that the decorations should be distributed as a mark of respect to the memory of Lord Raglan, he was justified in saying that the exclusion of these officers from the number of those who received the decorations ap-

peared like a slur on Lord Raglan's memory. He therefore asked the noble Lord why the names of these officers were omitted from the list of those receiving the decorations, and whether the English Government had not received some communication from the French Government with respect to their wishes on the subject?

THE DUKE OF CLEVELAND said, it appeared to him very extraordinary that the staff of Lord Raglan had not received the decorations which were certainly intended for them, and he could not help thinking that there had been some mistake. One officer who was well known, and who had been with Lord Raglan at the Alma and Inkerman, and remained with him up to his death—he meant Colonel Somerset, one of his aides-de-camp—had told him (the Duke of Cleveland) that he had been in constant communication, on the part of Lord Raglan, with the three French commanders—St. Arnaud, Canrobert, and Pelissier—and that he had heard them distinctly say that it was the most anxious wish of the Emperor that all his staff should receive the decoration of the Legion of Honour; and, as the noble Lord had just stated, the Emperor himself, after the battle of Inkerman, sent an intimation to Lord Raglan that he would receive the highest decoration of the Legion of Honour, and that all his personal staff would also be decorated.

LORD COLCHESTER considered that these decorations had been given away in a rather incautious manner. A friend of his, commanding a line of battle ship, had received from his own Sovereign the Order of the Bath, but in the distribution of the French honours he was passed over, although it had been given to his first lieutenant, although that officer, however meritorious, had never seen any land service.

LORD PANMURE reminded the House that nothing gave so much dissatisfaction as the distribution of military honours. With regard to the general question as to the distribution of the Cross of the Legion of Honour given by the French Emperor to the army of the Queen, he would, in the first place, state that he was not responsible for the selection of the different officers. When the intentions of the Emperor were made known to the English Government through the Foreign Office, the Commander in Chief instructed the commanders of the army in the East, Generals Simpson and Codrington, to return a list of the names, and that list was afterwards sent to the French Government. Therefore, if any

complaint were made as to the manner of the selection, the responsibility did not rest with the Government. But, at the same time, he was quite convinced that both General Simpson and General Codrington made the selection in accordance with the opinions they had formed of the services rendered by the different officers, and with a view to a fair distribution of the honours throughout the army; and he believed that they had acted in an impartial manner, and without favour or affection. In reference to the question of the noble Baron, he had to state that he had inquired at the Foreign Office whether there was any communication with regard to the distribution of the Order of the Legion of Honour to Lord Raglan or his staff; and the answer he had received was, that there was no trace in the office of any correspondence on the subject; nor could he trace any correspondence on the subject in his own department. But it was probable that the intimation of the French Emperor, as to his conferring these decorations, might be found in the private correspondence of Lord Raglan to his (Lord Panmure's) predecessor. It was wrong to suppose that there was any disposition to cast a slur upon the memory of Lord Raglan. There was not an officer on his staff who had not received one or two steps of promotion, or had not been decorated with the Companionship of the Bath from his own Sovereign. With regard to Colonel Somerset, that officer went out as lieutenant-colonel in Lord Raglan's staff. He had only just received his lieutenant-colonelcy, and was too young to be promoted over the heads of a vast number of lieutenant colonels who were senior to him. However, he had been made a C.B. It was impossible that the general commanding in chief or Her Majesty's Government could be accused of having shown any disposition to cast a slur on the memory of Lord Raglan.

THE EARL OF ELLENBOROUGH said, he could not understand how any officer could desire to wear a decoration vicariously, not on account of his own merits, but on account of the merits of the General under whom he had served. Honours were valueless unless they were bestowed for the services of those who wore them. At the commencement of the last war he had ventured to suggest the principle—the only true and correct principle—that no man should receive a decoration except for service under fire. A decoration given for any other kind of service was a deception

upon the public, and did no honour to the gentleman who received it. He knew several good officers who were entitled to decorations under general rules, but who had refused to wear them on the ground that they did not come within the principle he had stated. He had heard that all the officers and seamen employed in the Baltic fleet were to receive decorations. Why, hardly any of those men had the opportunity of being under fire; hardly 300 of them were ever within reach of shot! It was no fault of theirs, and they had rendered great services in another way—fighting was almost the least part of a sailor's duty—but they were not entitled to a medal. To give them a medal would be contrary to all the principles on which honorary distinctions were granted by nations for the purpose of encouraging military ambition. He had read the list of persons who were to receive honour from the French Government, and there seemed to him to be a profound misconception as to the relative value of the individuals on whom honours were to be bestowed. This was not the first instance, for at the close of the last war the same thing was done to a limited extent; but he hoped it would be the last instance of an interchange of honours between nations; officers should be made to know that they must look to their own Sovereign, and to their own Sovereign alone, for the honours they earned by their service in the field. That was the true principle, and any departure from it was likely to lead to mischievous results.

THE DUKE OF CLEVELAND remarked that the officers to whom he had alluded had been under fire.

THE EARL OF ELLENBOROUGH understood the noble Lord who had commenced the discussion to complain that a reflection had been cast upon Lord Raglan by no honours being granted to the gentlemen upon his staff. He inferred, therefore, that they claimed these honours in consideration of the services of Lord Raglan.

LORD CALTHORPE said, that the services of Lord Raglan's aides-de-camp had been seen and acknowledged by all the French commanders.

THE EARL OF ELLENBOROUGH observed, that aides-de-camp were not, generally speaking, ill-treated men. They usually received a larger share of promotions and honours, and were subjected to less hardship than regimental officers.

The Earl of Ellenborough

MARRIAGE LAW (SCOTLAND) AMENDING BILL.

Commons' Amendments *considered* (according to Order).

THE LORD CHANCELLOR moved, that the said Amendments be agreed to.

LORD PORTMAN begged to remind their Lordships of a Standing Order passed in 1707, by which the Lord Chancellor was obliged to explain to the House any Amendments made by the Commons in Bills sent down by their Lordships, and was glad that the noble and learned Lord on the woolsack generally observed that rule. It was, however, quite impossible that the Lord Chancellor could find time to discharge this necessary and important duty, and he would, therefore, suggest to the Government the propriety of transferring it to some one else. He would, therefore, give notice of his intention, next Session, to move that no Amendments should be proposed on the third reading of a public Bill, unless such Amendments had been printed.

THE LORD CHANCELLOR said, the noble Lord seemed to be unaware that he had already announced, on the part of the Government, their intention to propose, in the next Session of Parliament, the appointment of an officer connected with both Houses of Parliament, whose duty it would be to supervise the legislation of public Bills, and who would therefore take cognisance of the Amendments made by either House on the Bills passed by the other.

Agreed to.

MERCANTILE LAW AMENDMENT BILL.

Commons' Amendments *considered* (according to Order).

THE LORD CHANCELLOR deeply regretted that the House of Commons had thought fit to reject a clause in this Bill which had been strenuously opposed in this House, as their Lordships would remember, by Lord Overstone. He, however, moved that the Commons' Amendments to the Bill be agreed to.

Agreed to.

PAROCHIAL SCHOOLS (SCOTLAND) BILL.

Commons' Amendments to One of the Lords' Amendments, and their Reasons for disagreeing to several of the Lords' Amendments, *considered* (according to Order).

THE DUKE OF ARGYLL said, he was sorry to find that the noble Duke (the Duke of Buccleuch) intended to persist in

the Amendments he had succeeded in introducing in this House, notwithstanding the disagreement of the House of Commons from those Amendments. Knowing, however, the authority which the noble Duke possessed with their Lordships, and that he commanded a majority of that House, he (the Duke of Argyll) should not think it worth while to trouble their Lordships with a division; but would simply say "Not content" to the Motion that this House do insist upon the Amendments made by them in this Bill. In his opinion, the principal fault in the present Bill was, that it gave to the heritors too much power in the choice of schoolmasters, and not power enough to the ratepayers. He must repeat his regret that this Bill, which was a compromise between the two parties in Scotland, was not agreed to by the noble Duke. He conceived that they must fall back in Scotland upon what was called the denominational system. In England there could be no doubt that that system, under the aids granted by the Committee of Privy Council, had, on the whole, operated in favour of the Established Church. In Scotland he did not believe that it would operate in the same manner. There was a feeling of jealousy and dislike on the part of the Free Church against the great landowners of Scotland, which was aroused in 1843, and which, he was sorry to say, had not yet diminished. They had in Scotland a great rival body conducting most successfully a system of education.

THE DUKE OF BUCCLEUCH said, that he should insist upon the Amendments of their Lordships, with the exception of the first. The compromise of which his noble Friend spoke he regarded as nothing else than the yielding up of the great principle upon which the parochial schools of Scotland were founded. Something had been said in another place respecting the application of the "screw;" but he understood it had been held out that if this Bill did not pass, the schoolmasters would receive no salary, and be left to starve; if the term "screw" was applicable to anything at all, surely it might be to a threat like that. As to introducing the influence of the ratepayers—in many parishes of Scotland there were no ratepayers at all, and the heritors were the only persons to whom the schoolmasters could look for maintenance and support. So far as the Bill carried out the principle laid down in the preamble—"That it was expedient to

make further provision for schoolmasters," there could be no objection to it; but he did object to the mode in which it proceeded to alter and regulate the system of schools. What was a good argument for dealing with the schools might hereafter be an equally good argument for the Church, and he looked upon the measure, in short, as but a first step towards a direct attack upon the Establishment. It was only in 1850 that his noble Friend delivered a speech in which he argued that the present system of education in Scotland was a national system; and certainly it was not more national then than it was at this moment. The education was not confined to one sect, for the children of parents of all denominations were freely admitted into the schools and received their instruction there; and the only objection which the noble Duke and some of his Friends could urge against it was, that they could not subscribe to the formula of the Church of Scotland. He (the Duke of Buccleuch) assured his noble Friend that he had no personal hostility whatever towards the Free Church. So far from that, a large number of persons for whom he entertained the highest respect, and also several of his own intimate friends, were members of that communion. If, therefore, there was any personal feeling mixed up in the matter it was on the part of others, not his. He should insist upon all their Lordships' Amendments with the exception of the first.

LORD PANMURE said, he was afraid that the opposition to this Bill rested on an unfounded opinion that it was chiefly advocated by the Free Church of Scotland; but, in truth, it mattered little to that Church, as a Church, whether the Bill passed or not. He should not abandon the hope that, at some future time, the parochial schools would be placed on a more reasonable footing than at present.

Then it was *moved*, not to insist on Clause A., added by the Lords to the Bill, to which the Commons disagree; *agreed to*: Then it was *moved*, to agree to the Amendment made by the Commons reinstating Clauses XII. and XIV.; on Question, *Resolved in the Negative*: Then it was *moved*, not to insist on the Omission of Clause XVIII., to which the Commons disagree; on Question, Whether to insist? *Resolved in the Affirmative*; and a Committee *appointed* to prepare Reasons to be offered to the Commons for the Lords disagreeing to One of the Commons Amend-

ments to the Lords Amendments, and insisting on One of the Lords Amendments to which the Commons disagree: The Committee to meet immediately: The Committee reported Reasons prepared by them; the same were read, and agreed to; and a Message was Ordered to be sent to the Commons to return the Bill, with the Amendments and Reasons.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Thursday, July 24, 1856.

MINUTE.] NEW MEMBER SWORN.—For Dorchester, Charles Napier Sturt, esq.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Order for Committee read.

Motion made and Question proposed, "That Mr. Speaker do now leave the Chair."

MR. HADFIELD said, he rose to move that the House resolve itself into Committee that day three months. He belonged to a class of Her Majesty's subjects who had no temporal interest in the Church of England, except so far as the temporalities of that Church were contrary to the spirit of true religion. It seemed to him as if Parliament was monopolised by one denomination of Christians. Nobody appeared to bear in mind that the Church of England comprised only one-third of the population of the United Kingdom. Of the 27,000,000 of inhabitants 9,000,000 only were members of the Established Church; the remaining 18,000,000 consisted of Roman Catholics, Nonconformists, and the established Presbyterians of Scotland. Yet there was this peculiarity, that while Parliament was constantly engaged in discussing questions concerning the temporalities of the Church of England, the remaining 18,000,000 of the people never troubled Parliament in any way respecting pecuniary assistance except in two very insignificant cases. The days were gone by when the character of a Bishop of this realm was not to be made the subject of public discussion. The halo which it had been attempted to throw around Bishops and the sanctity with which the State had sought to invest them, excited in him no sympathy whatever. When, therefore, the Bishop of London came before the House, the only light in which he (Mr. Hadfield) contemplated the right rev. Prelate was

that of a fellow citizen and a fellow Christian subject. He apprehended that the right rev. Prelate did not stand so high in the estimation of the English people as some hon. Gentlemen would represent. Neither as a scholar, as a divine, or as a public teacher, did he stand on equal terms of competition with many Ministers of the various denominations into which the other two-thirds of the people were divided. The general opinion was, that the right rev. Prelate carried his High Church principles and his bigotry to an extent which rendered him unacceptable to a large number of persons. He believed it was a fact that many of the votes given yesterday in support of the Bill were for the purpose of relieving the diocese of that right rev. Prelate's supervision, replacing him by an abler and a better man. By a recent Act of Parliament, it was settled that the salary of the Bishop of London should be £10,000 a year, whereas the real amount had been stated, on good authority, to be £22,000 a year. Now, this was suffered to take place in a Church to which belonged 10,000 clergymen, whose annual incomes did not exceed, upon the average, £100 per annum. This right rev. Prelate was formerly a schoolmaster. He (Mr. Hadfield) mentioned it to his honour. Every man who raised himself by his industry, integrity, and abilities was entitled to respect; but surely such a gentleman was not to be allowed, after having had the administration of the vast territorial revenue of £22,000 a year, to retain on his retirement a pension of £6,000. Why, the President of the United States only received a salary of £5,000 a year. The noble Lord at the head of the Government had only £5,000 a year. What had the public done for that noble Lord, in a pecuniary point of view, whose services to the country were infinitely superior compared with those of any of the Bishops. The Pope of Rome received for his personal expenditure only £1,500 a year. The Cardinals of Rome received but £400 a year, and the Roman Catholic Bishops in this country, who worked in a way that an English Bishop worked, received but £500 a year. Notwithstanding that, this right rev. Gentleman, who was now in possession of such a territory and in the receipt of such an income as he had just stated, called upon the House to stipulate with him that he should receive £6,000 a year as a retiring pension. The right rev. Gentleman once held the bishopric of Chester

the income of which was £3,000 a year. He held it for four years, and was then translated to the see of London, which he had held for twenty-eight years. Four years at £3,000 would make £12,000, and twenty-eight years at £22,000 would make £616,000, amounting together to the sum of £628,000. That was the sum which had been given to the Bishop of London, beside the patronage he enjoyed, consisting of no less than ninety-seven livings, and which were reported to be worth £70,000 a year. He wished particularly to call the attention of the House to this fact, that all this worldly wealth was at the disposal of a disciple of Christ—the Divine Minister of Mercy, who came into the world ushered in a manger, and who died on the cross—who wrought miracles to raise tribute money, and whose great disciple Paul worked with his own hands, that he might not be a charge to any man. With respect to the Bishop of Durham, he had enjoyed an income of £5,000 a year as Bishop of Chichester for five years; and his present income was £16,000 a year. He had held his see for twenty years, so that he had received altogether a sum of £345,000. The Act of Parliament relating to the incomes of the Bishops fixed the amount of the Bishop of Durham at £8,000; but, in fact, the receipts of that right rev. Prelate had, by some unexplained means, doubled that amount. These two Bishops had together received a sum of £973,000 besides the patronage attached to their bishoprics. Such an enormous sum was an amount unparalleled in the history of the world. These two Bishops had received nearly £1,000,000 of the revenue of the Church, while there were 10,000 clergymen of that very Church each receiving a sum not exceeding £100 per annum. Now, he would ask was such a state of things to be endured by the House of Commons or by the people of this country? But besides such large incomes and the immense amount of patronage, the Bishops were allowed a seat in the House of Peers. That he conceived to be an injustice to the country. Not only did those Bishops exercise their own rights as Members of the House of Lords, but they acted, by virtue of their spiritual character, as a most influential power over the minds of the lay Lords in that assembly. It was, therefore, wrong and unjust that Bishops should have a seat in that House. Those were serious matters for the House to consider. Did the House suppose that their debates were

not read? Did they not believe that the charge of simony would be believed in by millions of Her Majesty's subjects? Would not the fact of these two right rev. Prelates, after having received nearly £1,000,000 from the State, and coming to the House and asking for retiring pensions to the amount of £10,500 a year, be canvassed in every pothouse in the country, and be made the subject of the song of the scoffer and the mockery of the drunkard? It was a happiness to know that there were men, even in the Church itself, who lamented such a state of things; while there were men, without the Church, of the largest minds and who had ever trod in the footsteps of their Divine Master, labouring for a pittance, before whom those two right rev. Prelates would be made to bow their diminished heads. Was either of those two Prelates to be compared with Robert Hall, with Dr. Pye Smith, or with Dr. Robert Newton? He could not allow the Bill to pass without expressing to the House what he believed to be a strong prevailing sentiment on the part of a vast majority of the people, and he warned the House to be prepared for the time when that sentiment would be enforced by much abler men than himself. He begged to record his opinion against a measure which he deemed odious; which he believed to be injurious to the country, to strike at the very root of all religious sentiment, and calculated to destroy the Church itself. To the honour of the Colonies of this kingdom, he could say that no one of them had followed the example of this country in forming a Church Establishment; and it was time that the Church should set its affairs in order, for such was the force of public opinion on this question that it would be impossible for that Church to stand against it.

MR. NEWDEGATE, in seconding the Amendment, said, he very much regretted that such severe remarks should have been indulged in by the hon. Member for Sheffield. He considered that the Bishop of London had dispensed his revenue with a most liberal hand. It was, however, with much pain that he (Mr. Newdegate) voted against the second reading of the Bill, but he did so conscientiously, feeling that if the measure passed it would establish a precedent which would work the greatest possible detriment to the Church of England. The Bishops of this country ought not to be left in such a position as either to be obliged to retain their bishoprics

after the state of their health made it irksome to them to discharge their duties; or to make a bargain with the Prime Minister for the time being in order to secure them from being left destitute. It was the general feeling among churchmen that that state of things rendered the Bishops subservient to the Minister of the day. Either the present Bill ought to be made an exceptional measure, or it ought to be a precedent for future legislation. He would, therefore, ask the noble Lord whether it was his intention in the course of the next Session to introduce a Bill of a general nature to provide for all retiring Bishops who were incapacitated by infirmity or age? His opinion was, that there ought to be a legal provision made for the retirement of the Bishops, which they might claim after proving before a competent tribunal that they were incapacitated from discharging their duties.

Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "this House will, upon this day three months, resolve itself into the said Committee," instead thereof.

Question proposed, "That the words proposed to be left out stand part of the Question."

THE MARQUESS OF BLANDFORD said, he was most anxious to impress upon the noble Lord at the head of the Government the immense importance of acceding to the suggestion of the hon. Member for North Warwickshire (Mr. Newdegate)—to give a pledge that in the next Session a general measure on the subject should be introduced—because he could not conceive anything more prejudicial to the interests of the Church, or more calculated to discredit the character of the episcopate, than that upon every occasion of the retirement of a Bishop it should be necessary to pass a special measure. No one rejoiced more than himself in the connection between Church and State, but he thought that so close a political relationship with the State was really humiliating to the Church; and, seeing how aspersions had been cast in the course of the discussion on the characters and the acts of the Bishops of London and Durham, he could not suppose that, henceforth, any Prelate, however anxious he might be to surrender the responsibilities and the duties of his office, would venture to face the difficulties and annoyances incidental to special legislation. He supported the second reading of the Bill be-

Mr. Newdegate

cause the disadvantages of not passing it were greater, in his opinion, than those of passing it. It was impossible the diocese of London could continue in its present state, and the appointment of suffragans or coadjutors would not, he apprehended, meet the necessities of the case. Parliament had fixed the income of the future Bishop of London at £10,000 per annum for the entire performance of the duties; and if the measure now before the House did not pass they would leave a prelate in the see enjoying £18,000 or £20,000 a year, incapable of performing any of the duties. He regarded that as a conclusive argument in favour of the Bill. It had also been remarked that, after payment of the retiring pension, there would be a gain of £5,000 a year. The anomalous position of Church property might not be recollected. Parliament had sanctioned a mode of dealing with leases by enfranchisement, whereby the value of Church estates might be doubled. But the action rested with prelates and dignitaries, who were debarred, by their incomes being fixed, from obtaining any advantage from enfranchisement. Upon a vacancy in the see of London the estates would be transferred to the Ecclesiastical Commissioners, who were interested in promoting enfranchisement, and the effect of the Bill would really be to give a much larger increase than £5,000 a year to the funds of the Commissioners. An appeal which he had made on a former occasion to the noble Lord (Viscount Palmerston) to put in force the Act of Henry VIII. might, at first sight, appear inconsistent with his support of the Bill now under consideration, but the two courses were perfectly compatible, because there might be cases for absolute retirement, as in this matter of the Bishops of London and Durham, and cases of Bishops, in full possession of health and strength, so overburdened with work as to be extremely glad to obtain the assistance of suffragans. He still, however, retained his opinion that great advantage would be gained from putting in force the Act of Henry VIII. It would not supersede a measure of retirement, and a measure of retirement would not supersede it. He hoped the present measure would be the prelude to a general one, and that the noble Lord would employ the recess in preparing a scheme which should be applicable to the general wants of the Church and for ever set at rest this most important question.

MR. MOWBRAY said, he also wished to add his appeal to that of the hon. Member for North Warwickshire, that the noble Lord would pledge Her Majesty's Government, if they should continue in office, to introduce a general measure on the subject in the next Session. A great deal had been said as to whether the Bill before them should form a precedent or not. In one respect he hoped it would. In other respects he hoped it would not. It was a valuable precedent, inasmuch as for three centuries since the Reformation there had been no instance of the resignation of a Bishop; but at the same time he must confess that he did not wish to see the details followed in a general measure. He did not complain of the amount of the retiring pensions, because, when they looked at the amount of the incomes those Bishops had enjoyed, it was nothing more than reasonable that their retiring pensions should in some degree accord with their previous incomes. If a general measure had been brought in, the bishoprics of London and Durham must have been dealt with as exceptional instances. That, therefore, was an answer to any complaint for not bringing in a general measure in the present Session; but, with regard to any general measure in a future Session, he hoped it would not be such as they might expect from the right hon. Baronet the Member for Carlisle (Sir J. Graham), who regarded the present state of the diocese of Durham, part of the duties of which were performed by the Bishop of Manchester, as "satisfactory." [Sir J. GRAHAM: I said tolerably satisfactory.] He thought, however, that the right hon. Baronet would not be disposed to describe the condition of the diocese of Durham as tolerably satisfactory, if, on his return to his constituents, he visited Durham and some of the more distant parts of Northumberland. He did not wish to reflect upon the imperfect superintendence of a Prelate bowed down by age and infirmities, but the argument of the right hon. Baronet was, he considered, extremely dangerous to the Church. It was now only eight years since Parliament created the see of Manchester. [Sir J. GRAHAM: Thirty years.] He thought the see was appointed in 1848, but however that might be, Parliament had assigned an income of between £4,000 and £5,000 a year to the see of Manchester, and was entitled to expect that the Bishop would devote the whole of his time to discharge the duties of his own diocese.

To say that the Bishop of Manchester had time to place at the disposition of the Bishop of Durham was, without doubt, one of the strongest arguments which could be used against episcopacy. That such would be the general feature of any measure the right hon. Baronet might introduce was apparent from the fact, that the right hon. Baronet had pointed out how, in the dead and torpid state of the Church which prevailed in the reign of George I., a Bishop of Rochester administered, without scandal or inconvenience, the see of London; and how, in 1843, the Bishop of Salisbury performed the duties of the diocese of Bath and Wells during the incapacity of Bishop Law. They were told that at the present time several other Prelates were incapacitated by illness, and the inference from the cases cited was, that the healthy Bishops were to perform the duties between them. No argument, he asserted, could be more dangerous to the Church or inconsistent in itself. The hon. Baronet the Member for the University of Oxford (Sir W. Heathcote) said the relations between a Bishop and his clergy should be of a close, intimate, affectionate, and personal character; but how could that be expected if his duties were performed in the most rapid and perfunctory manner possible by a Bishop coming for the purpose from a distant diocese. He trusted, therefore, whatever the measure might be which Her Majesty's Ministers would introduce, it would not be founded on the views of the right hon. Baronet (Sir J. Graham). He hoped that the question of the subdivision of the bishoprics would not be overlooked. He believed there had been a recommendation, on authority, that subdivision should take place in both these dioceses. He had only that morning formed one of a deputation which waited on the noble Lord at the head of the Government to urge the subdivision of the diocese of London. He hoped that when bringing in a general measure for the retirement of Bishops, the Government would introduce some other measure for the extension of the episcopate, and he inferred that, there was some such intention from the concluding clause of the Bill under consideration, which provided that the new Bishop of London and the new Bishop of Durham should take their sees subject to any arrangement Parliament might make during the next three years relative to those dioceses. He must express his astonishment at the opposition which had sprung up against the Bill, and,

although he had listened with attention to the arguments which came from right hon. Gentlemen exercising great authority in that House, those arguments appeared to him to be extremely technical. The opposition of the hon. Member for Sheffield (Mr. Hadfield) was more reasonable, because he was opposed to episcopacy altogether, but, without following the hon. Gentleman into the lengthened disquisition by which he intended to show that there were Nonconformist divines with whom the divines of the Church of England could not compare, he would express his earnest desire that the House would support Her Majesty's Ministers in applying a practical remedy to a gross and glaring evil.

SIR JOHN FITZGERALD said, he was opposed to the Bill, considering it one of exclusion. It granted retiring pensions to two right rev. Prelates, both of whom were in receipt of immense incomes quite adequate to provide for themselves and their families. It appeared these two right rev. Prelates had sent a statement to the effect that from age and infirmities they were rendered incapable of performing their duties, and therefore on receiving a certain amount of annuities they were willing to retire. But, he would ask, were not the working clergy equally liable to various infirmities as the two right rev. Prelates? yet not one word was mentioned of providing retiring pensions for them—certainly the most laborious body in the Church. Another objection to the Bill was the very nature of it—a proposition coming from the two right rev. Prelates, stating on what terms they were willing to retire and give up their bishoprics; and what was the construction placed on such a proposal? Several of the learned Members of the House, during the debate, had declared that they considered such a mode of proceeding as amounting to simony; and he, therefore, hoped the noble Lord the First Minister of the Crown would pause and not persevere in attempting to pass the Bill. They had heard much of the "faith of a Christian" lately in that House, and they ought also, he thought, to bear in mind Christian charity, and not make such a Bill as the one now proposed an exclusive one, but have a regular scale of retiring pensions for all classes of the clergy drawn out—which, he was certain, would not only give general satisfaction to the country, but would also be of real service to the Church of England.

MR. HILDYARD said, great wealth

Mr. Mowbray

appertained to the See of Durham, and he recollected that much discontent was occasioned when a portion of that wealth was appropriated to the legitimate purpose of increasing small livings. The suggestion of the hon. Member (Mr. Mowbray), if carried out, would bring back that wealth, and, therefore, persons interested in the diocese had strong motives for urging the appointment of two or three more Bishops. The present Bill provided pensions out of the Ecclesiastical Common Fund, without injury to that fund; but as soon as those lives fell in that would not be the case, and he must protest against trenching upon the "Common Fund" for the retiring pensions of Bishops, because it was at present wholly inadequate to provide for the working clergy. He would remind the House what had occurred with respect to the retirement of Irish Judges. There was no class of functionaries looked upon with so much consideration as the Judges. But it was not so with the Bishops. Religious prejudices and animosities were excited and made imperative the utmost precautions, so that on the one hand, they should not cling to place after they ought to resign for the purpose of throwing the patronage of appointing their successors into the hands of their political friends; and, on the other, that an unscrupulous minority should not be enabled to compel them to resign when they were fully equal to the discharge of their duties. He hoped Parliament would not be considered as represented by the small number of persons now present, and that when a general measure was introduced they might be allowed to freely discuss it upon its own merits. Although he disapproved of the Bill, and should be glad to throw it out, he would suggest that, after the strong expression of the opinion of the House in the division yesterday, the hon. Member for Sheffield (Mr. Hadfield) would do no good by persevering with his Amendment.

MR. MOWBRAY said, he must beg to explain that he wished the see of Durham to be so divided as to give a Bishop to Northumberland, with which county he had no connection or interest. He was in favour of the appointment of two or three more Bishops for the whole of England.

VISCOUNT PALMERSTON said, he was very well aware that the hon. Member for Sheffield (Mr. Hadfield) was a most determined enemy to the Church Establishment, and, as the hon. Member was of opinion

that this Bill would be most detrimental to the interests of the Established Church, he thought he might, on the hon. Gentleman's own showing, claim his support. If the hon. Member really thought the Bill would have the effect which he ascribed to it he ought to divide with the Government in its favour, and vote against his own Amendment. He could not express himself in clearer terms than those of the hon. Member for Durham (Mr. Mowbray) upon the point, that even if a general measure had been proposed they must have had a clause making exceptional provision for these two sees in question, because it was only fair and just that the proportion of retiring allowance should be calculated, not according to the reduced incomes which those Prelates had never received, but according to the incomes which they had been in the receipt of. Any general rule must therefore be subject to those exceptions. As to what might be the intentions of Her Majesty's Government with regard to a general measure he was not at the present moment prepared to state them, but he was quite prepared to say that if the Government proposed a general measure next Session they would do it upon their own responsibility, and that nothing which had passed in the course of the debates would preclude hon. Gentlemen from considering the measure upon its own merits. At the same time, with respect to the topic on which the hon. and learned Member (Mr. Hildyard) had dwelt—namely, his objection to any arrangement by which retiring allowances were placed on the "Common Fund," because he considered that fund ought to be devoted to the general interests of the Church by the increase of small livings. Now, the interests of the Church lay in more directions than one, and although it might be the interest of the Church to give adequate stipends to parochial clergymen, yet, it undoubtedly was greatly to the interest of the Church that the duties of the episcopacy should be effectively performed, and in the case in which a Bishop by age or infirmity was unable to perform those duties it was the interest of the Church to supply his place by an active and efficient Bishop. He only mentioned that to show that much could be said both ways, and that the House might not run off with the conclusion that no answer could be made to the argument of the hon. and learned Member. With regard to the method of supplying the places of infirm Bishops, he

had no hesitation in stating that his own opinion was very much the same as the hon. Gentleman's (Mr. Mowbray's), that the arrangement of the right hon. Baronet the Member for Carlisle (Sir J. Graham) would not be a good one. His opinion was—subject, of course, to the better opinion of the House—that if they were obliged by peculiar circumstances to relieve from duty an aged and infirm Bishop, it would be a bad arrangement to place under or over him, but in the diocese with him, an episcopal office, not having all that weight and authority which belonged to the actual possessor of the see. In his opinion, in that case they ought to get a clear see and appoint another Bishop, on whom the responsibility would be undivided, just as if a vacancy had occurred. He quite agreed with the hon. and learned Gentleman (Mr. Hildyard) that retirement ought not to depend either upon the simple will of the Bishop or upon the discretion of the Government of the day. They ought to endeavour to find some independent authority which, having the interests of the Church at heart, and not being connected with the Government of the day, should determine in the two cases whether the Bishop wishing to retire was really by physical infirmities incompetent, or whether the Bishop, unwilling to retire, but evidently incompetent by physical infirmities, should not be obliged to retire. He thought it was quite right that that decision should not rest with the Government of the day, because any arrangement they might make would certainly be open to animadversion and the imputation of motives, to which, although persons who understood the political affairs of the country knew the Government were not really liable, yet it was undesirable the Government should be exposed. He therefore thought that, if there were a general measure, some such arrangement as he had suggested ought to be adopted. He was willing to admit that these partial measures were objectionable, because they raised discussion upon personal questions connected with dignitaries of the Church, to which it was unfair to expose them; but, without giving any pledge that the Government would be able to frame a fit measure, if they did propose any general measure it must be considered as the measure of the Government, and no one would be committed to approval of it by anything which might pass on the present occasion.

MR. HENLEY said, he thought that the answer of the noble Lord threw some light on the course which the Government would probably take next Session on this subject. He congratulated the hon. and learned Gentleman the Solicitor General on the task which he had undertaken, to form some kind of tribunal to decide on some general principle as to the claims of right rev. Prelates wishing to retire. The noble Lord had made up his mind so far, that he thought when the Bishop became unfit for duty he should be removed. He was quite of opinion with the noble Lord that it would be inconvenient to leave the decision of such matters to the Government for the time being. The noble Lord seemed also to have made up his mind as to the insufficiency of appointing suffragan Bishops. The hon. Member for Durham (Mr. Mowbray) had commented on the strange course which had been taken in opposition to the Bill by Members who had always been regarded as the friends of the Church. But he would call the attention of the hon. Member to the fact, that the Bill proposed a novel mode of dealing with Church dignitaries, and that they who had opposed it were desirous of adhering to the established rules of the Church. He agreed with the noble Lord, that episcopal wants ought to be supplied as well as parochial wants. The noble Lord had commented on the observations of his hon. and learned Friend (Mr. Hildyard), who had entered his protest against trenching on the "Common Fund" to supply retiring allowances to Bishops; but the noble Lord seemed to forget that there was no "Common Fund" for the parochial clergyman to fall back upon if he became unfit for duty, either for a retiring allowance or for the support of a curate. If they were to act on a general principle, he saw no justice in providing for the pensions of Bishops out of the "Common Fund," while the parochial clergyman was left to support himself out of his own means. He was glad to hear that the noble Lord did not consider any one pledged as to future legislation on the subject.

MR. KINNAIRD said, that although he was not favourable to excessive episcopal incomes, and though he had objected to many things the Bishop of London had done, he could not let the criticisms of the hon. Member for Sheffield (Mr. Hadfield) pass without notice. He believed Dr. Blomfield had administered the revenues of the see with great liberality.

During his episcopacy he had consecrated not fewer than 200 new churches; and he had built and endowed one of them entirely at his own cost.

MR. PELLATT said, that, though a Nonconformist, he had voted for the second reading of the Bill, because it was a question of State, and he felt it his duty to support the Government in doing what was best to be done under the circumstances. He hoped that in framing any general measure the noble Lord would not overlook the propriety of removing the Bishops from the House of Lords.

MR. HADFIELD said, he would withdraw his Amendment.

Preamble *postponed*.

Amendment, by leave, *withdrawn*.

Main Question put, and *agreed to*.

House in Committee.

Clause 1.

MR. GLADSTONE said, that, retaining all his objections to the Bill, and deeming it to be highly indecent that the House should be called upon within five or six days to pass the measure, yet, judging from the division of last night, that the House would not concur with him in that matter, he should confine himself on the present occasion to proposing an Amendment, with a view of embodying his protest against what he conceived to be the objectionable nature of the Bill. The hon. Member for Durham (Mr. Mowbray) had expressed great astonishment with regard to the course which had been taken by hon. Gentlemen who had opposed the Bill. The hon. Gentleman said that they ought to have done directly the reverse. His hon. Friend, no doubt, had arrived, with great satisfaction to himself, at that conclusion; but when he had devoted to public business as many years as those who had at present given four, five, six, and seven times as many years to the business of the public as he had, he would perhaps be less ready to express his surprise at the course which had been pursued. His hon. Friend had said that nothing but technical objections had been taken; but he (Mr. Gladstone) must tell his hon. Friend that one of the great dangers of the period in which they lived, and the most besetting sin of that House, was a disposition to live, in respect to legislation, from hand to mouth, and to make provisions for the moment and the hour, and then to call that practical legislation. When they were invited to direct their attention either to the general principles of the law, or to remote

and ulterior consequences, they were told that these were mere technical objections. Now, he would ask hon. Members if it was a mere technical objection to consider the terms on which the resignation of a bishopric or of a benefice was made—whether it was made in connection with some emolument or not? However, his present object was to move an Amendment, for the purpose of recording his objection to this pecuniary bargain, which he considered to run counter to the common law of all Christendom. No answer had been given to the argument of the right hon. and learned Gentleman (Mr. Napier), that the resignation of a spiritual office on a bargain for the receipt of money, as an essential condition for resigning, was simony. He challenged contradiction to that proposition, and he felt bolder in so doing in consequence of the able arguments of the right hon. and learned Gentleman. It was the bargain of the individual, it was the making the receipt of money a condition of resigning a spiritual office, which constituted the offence of simony. His opinion was, that no general measure would have given a sanction to any particular bargain; but it would have been perfectly easy to avoid any difficulty on that point. He entertained strong objections to making a particular bargain, and he believed his noble Friend at the head of the Government had fairly admitted, to a certain extent, those objections. He should, therefore, move that, instead of the words, “accept the resignation of his see by the said Charles James Lord Bishop of London,” there be inserted, “accept the resignation of his see by any Bishop of his province.”

SIR GEORGE GREY said, the object of his right hon. Friend was to make the Act a general Act, instead of it being a particular Act, confined to two cases only. The first objection to such a proposition was, that no measure of the kind could be passed during the present Session. If his right hon. Friend enforced his Amendment, it would in fact negative the Bill.

MR. MOWBRAY said, he was sorry to have incurred the censure of his right hon. Friend the Member for the University of Oxford. He certainly thought that when the Bishops of London and Durham were about to surrender two-thirds of their income, they were setting an example of which no one could disapprove. He considered it to be an act of great disinterestedness on the part of those right rev. Prelates, and that no corrupt motive could be

assigned to them. He therefore did think that the argument concerning simony was of a strictly technical character, and he still remained of that opinion.

SIR JAMES GRAHAM said, he wished to ask the noble Lord at the head of the Government whether the letter from the Bishop of Durham, bearing date the 21st of June, was the first communication which had passed between that Prelate and the Government? It was known that the Bishop of Durham first intimated to the Government in November last, his intention to resign upon terms which had reference to the amount of income to be provided for him on his resignation. He therefore wished to ask whether the letter of the 21st of June, 1856, in which the Bishop stipulated for an annual allowance of £4,500, was the first communication that had passed between him and the Government with reference to the amount to be allowed to him on his retirement? His reasons for putting the question so distinctly was, that he wished to know whether the Bishop of Durham had not in the first instance required a larger sum, and whether the Government did not object to propose to Parliament a larger sum, and whether, after much communication with regard to the amount, this letter of the 21st of June was ultimately the result of frequent communications between the Bishop and the Government, and that the Government at last consented to recommend £4,500 as the maximum amount to be provided for the Bishop?

VISCOUNT PALMERSTON: I beg, Sir, to say that I shall feel very glad to answer the question of my right hon. Friend since it has been put, though I must say that this is the first time I have heard of the circumstances which have been referred to. It is perfectly true that in the course of last autumn, or rather shortly before the Christmas holidays, I was informed verbally that the Bishop of Durham wished to resign. I took those steps upon that communication which I thought to be necessary, having then an intention of bringing forward a measure relating to these cases. But after a certain period I was informed, from the same quarter, that the Bishop of Durham no longer wished to resign; therefore the matter dropped. The first communication made to me by the Bishop was by letter. It may be, and very possibly was, the fact, that some days before that letter was actually written a verbal communication was

made to me on the point; but this I do state—that at no time was any larger sum proposed than what has been mentioned, nor was there any communication or negotiation such as has been talked of, or any objection made by me to any larger sum than that which is mentioned in the Bill.

SIR JOHN SHELLEY said, that with regard to the Bishop of London, information from a source which he knew to be correct had reached him, that on the part of that right rev. Prelate no proposition of any kind had been made by him, except what was contained in the correspondence.

MR. EVELYN DENISON said, he very much regretted, now that they had got into Committee, that their attention should have been directed to matters not strictly before them. With respect to the Amendment, he doubted whether, if the proposed words were introduced, it would not be necessary to recast the whole Bill. He thought it would be impossible to transform the present Bill into a general measure, and he should therefore vote against the Amendment.

MR. HENLEY said, he did not think the words proposed to be left out would by any means have the effect of making the Bill a general Bill; nor did he believe that, if the Amendment were agreed to, the other clauses of the Bill would require recasting. The only effect of the Amendment would be that no special cause of resignation would be shown.

MR. GLADSTONE said, the hon. Member for Malton (Mr. E. Denison) was quite mistaken in supposing that the adoption of the Amendment would make it necessary to change the other clauses of the Bill. The principle he wished to lay down was, that the law of resignation should be a general law. The Bill did not authorise resignation, it only recognised resignation.

MR. NAPIER said, the Bill, if amended as proposed, would not give the two Bishops any new power to resign which they did not already possess by law; and a great portion of his objection to the measure would therefore be removed. The Bill would be simply a measure to make a pecuniary provision for two Bishops who had unconditionally surrendered their sees.

THE SOLICITOR GENERAL said, in consequence of indisposition, he had not had the opportunity of expressing an opinion upon the Bill on a previous discussion, he therefore hoped the Committee would bear with him while he made a few remarks on the measure. It was not a sub-

ject on which he would venture to offer an opinion without much consideration. He deeply deplored that any observations should have been made to the effect that if the Bill were carried an imputation of simony would attach to the right rev. Prelates whose names were connected with it. That ought not to have been stated by any one who could not conscientiously aver that he was perfectly well informed upon the subject of the law and conversant with ecclesiastical proceedings. He ventured to say, with great humility, but with much confidence, that any man who would devote an hour to ecclesiastical history, or to ascertain what were the ecclesiastical duties of the Bishops—which any man might do who would look through the Statutes—would be perfectly convinced that what was now proposed to be done was in strict conformity with the law of the Church, and in strict conformity with the municipal and conventional law of simony, which was all that they were bound to recognise. Now, what was the practice of the Church in ancient times? He would read what was the history of the resignation of the Bishop of Durham in the fourteenth century. He quoted from Strype's *History of the Life and Acts of Archbishop Grindal*:—

“*Purificatione Beate Mariæ imminente, Episcopus Dunelmensis Nicolaus, sentiens se auctorem valetudinarium, et infirmum, &c., Episcopatum suum Dunelmensem, obtenta tali à Domino Papa licentiâ, resignavit,—[hon Members should observe the peculiar phraseology of what follows]—et datis ad hoc provisoribus, Archiepiscopo Eboracensi et Londinensi et Wigornensi Episcopis assignata sunt ei tria maneria,—viz., de Hoveden cum pertinentiis, Stoctuna et Esingtuna. Recedens igitur à Dunelmo, acceptâ ibidem à fratribus licentiâ ad alterutrum dictorum maneriorum mansurus, perrexit, ut in pace ibidem, sine querelarum vel causarum strepitu, exutus à sollicitudinibus mundanis, sibi jam expectanti donec ejus veniret immutatio, liberius orationi vacaret, &c.*”

It might not be unworthy the attention of the right hon. Gentleman the Member for the University of Oxford (Mr. Gladstone) to consider in what way objections to arrangements for retiring Bishops were met in those days:—

“*Adulatores quidam pessimi cupientes placere Dunelmensi Episcopo Waltero, petierunt à Papa Episcopatum vel reintegrari, vel saltem minus damnificari. Quibus Papa. Miramur super his Nonne facta fuit distributio illa, et partitio per magnam deliberationem et considerationem virorum peritorum, et consensum partium; et res jam confirmata est per nos, et regem Angliæ, & per provisos. Et sic repulsi sunt accusantes cum probis.*”

There was another case—the case of Archbishop Grindal. He was Archbishop of

Canterbury in the reign of Elizabeth, and, being blind, was incapable of performing the duties of his office. The Queen sent the Lord Treasurer to him, and, after an interview, the Lord Treasurer sent a message to some person attending about the Queen :—

“ To inform Her Majesty at his leisure, that the Archbishop was now ready at Lady Day, being the end of the half year allotted him, to resign his bishopric, to be conferred by her upon some other, to enter into actual government of the Church of England, which sustained, he said, great lack for present action. That he yielded himself to Her Majesty's goodness to have some pension during his short life, which he (the Treasurer) wished to be great and honourable, although it should be to the successor burdensome for the present. But he that should have it must shape his garment with his cloth for the time. That he had seen into the value of the Archbishop's possessions, and found them to be about £2,780 per annum, according to the rate of the book of first-fruits. That he had also seen the particular books of the annual receipts, which grew somewhat, but not much, above ; and if the then Archbishop might have £700 or £800 a year pension, he thought his successor with good husbandry might make the rest to be £2,000.”

[Mr. GLADSTONE: What is the book you are quoting from ?] The passage is from Strype's *Life of Archbishop Grindal*. The Archbishop made two petitions to Her Majesty, that she would grant him the house at Croydon, and

“ This he signified to his Friend the Lord Treasurer, showing him that in all resignations of Bishops, so far as he had read or heard, there had been always one house at the least, pertaining to the see, assigned to the resigner, as partly might appear by a note which he sent him, taken out of the history of Mathew Paris.”

The other petition was—

“ That he might not be called to trouble after his resignation for dilapidations. From which, as he was informed by the learned in the laws, he was by law upon a resignation excused. Notwithstanding, although he did not distrust the equity of his successor, yet because he had been so much troubled with suits for dilapidations, he was fearful. And therefore prayed, that he might have some good assistance if the case should so require.”

It was so arranged that the House at Croydon should be given, and also freedom from dilapidations ; and these conditions were recited in the deed of resignation which was prepared. The deed was not completed, because the good old Archbishop died before the arrangement could be carried into effect ; but no one in those days—and they knew the law of simony just as well as lawyers did now—ever dreamt that Archbishop Grindal was open

to the charge of simony. The hon. Baronet the Member for the University of Oxford (Sir W. Heathcote) referred to the statute 26 *Hen. VIII.*, chap. iii. Whoever looked at the 21st, 22nd, and 23rd sections of that Act would find that in every case of resignation by a Bishop, Abbot, or Dean, it was competent to the ordinary to assign a pension to the retiring dignitary, to be paid out of the revenue of the succeeding Bishop, Abbot, or Dean, and in some particular cases the statute provided that the pension should not exceed a limited amount. That particular statute was not in the smallest degree interfered with by 31 *Eliz.* The Act of Elizabeth struck only at corrupt resignations and pensions, which were the result of corrupt bargains. The consequence was, that by the law, as embodied in the statute of Henry VIII., and confirmed by the statute of Anne, it was competent to give pensions upon resignations, and, but for some difficulties in the manner and form of carrying these resignations into effect, there would have been no necessity to come to Parliament at all ; but inasmuch as there had been no resignation of a bishopric since the time of the Reformation, there would be a difficulty, no doubt, in understanding accurately in what form to carry the law into effect ; and it had therefore been thought best to bring in the Bill now before the House. He was surprised that a right rev. Prelate in another place (the Bishop of Oxford) should not only have objected to the Bill on the ground of simony, but also, he stated, because it was a *privilegium* introduced for the first time, and unknown to the law of the land. Now, that objection only showed that no man should deal in those observations whose knowledge of the subject was not so complete as to render it perfectly sure he could maintain them. It was said this was a corrupt bargain on the part of the Bishop of London and the Bishop of Durham. The words of the ecclesiastical law were that resignation should be *spontè simpliciter et absolutè*. He contended, then, that these resignations accurately fulfilled that interpretation that everything was done in *facie ecclesie*, and that there could not be the slightest ground for imputing a corrupt bargain to those Prelates. It was said that the Bishops offered to resign upon conditions ; but he could not imagine a more perverse view of the question. The letter of the Bishop of London was merely to this effect—that he was desirous of re-

ceiving a provision for old age, and if it were allowed by law he would accept it; that if the law gave it to him, or if the law would give it to him, then he desired it. Was there any corruption in a man saying he desired to do nothing more than what the law authorised or should authorise? And when hon. Members spoke of a contract by the Government, they should remember that the arrangement made by his noble Friend the First Minister of the Crown was nothing more than that, if the existing law did not meet the case, a Bill should be brought in for the purpose. He trusted his right hon. Friend the Member for the University of Oxford would give him credit for speaking with perfect sincerity when he expressed his belief that he had laid before the House the true grounds on which a legal decision of the question could be arrived at. Sound reason and good sense would be sufficient, even if the question would not stand the test of the law; but he believed it would stand the test of law and of ecclesiastical usage. He believed that the provisions of the Bill were framed in complete conformity with what the law was upon the subject, and in complete conformity with ecclesiastical precedent and the usage of former times. The right hon. Gentleman had read somewhere that simony was bargaining. It was so; but it meant corrupt bargaining—the receiving money or other consideration—and the right hon. Gentleman had taken the naked proposition without its proper interpretation. If they altered the first clause in the way proposed, they must alter the Bill altogether, in a manner unquestionably not contemplated when leave was given to bring in a Bill to provide for the retirement of the Bishops of London and Durham.

MR. GLADSTONE said, he was sorry to interfere with his hon. and learned Friend, but as the speech of the hon. and learned Gentleman was addressed to him he trusted the Committee would allow him to say a few words in reply. His hon. and learned Friend said he would not pronounce a syllable of censure, and though he had not pronounced censure explicitly, he had come as near to it as possible with the interpretation he had put on the words *repulsi accusatores cum probis*. If there were any *probra* in this matter to whom did they belong? He thought he should prove that they did not rest upon him. The hon. and learned Solicitor General produced a book, which,

The Solicitor General

by his learning and accomplishments—and no Solicitor General ever possessed greater talents and greater accomplishments—he had been enabled to discover, and from the extracts he had read he wished the Committee to believe he had convicted his opponents of gross ignorance, because, he said, any man who gave an hour to an examination of the law of the Church must have seen that the Bill before the Committee was perfectly conformable to the law, that the objections were nought, and that the *accusatores* ought to be repulsed *cum probis*. But what would the Committee think when he assured them that the cases quoted by the Solicitor General did not touch the matter in dispute in the slightest degree. The hon. and learned Gentleman had conveyed a perfectly untrue impression as to the character of the two cases. Now, what was the point of issue between him and his hon. and learned Friend? Had he ever said that it was improper to assign maintenance to persons who resign bishoprics? Did not the hon. Member for Finsbury (Mr. T. Duncombe), representing a somewhat rigid rule with regard to the retirement of Bishops, and, at any rate, not taking a too favourable view of the case—did he not say that these Bishops ought to have resigned unconditionally and thrown themselves on the generosity of Parliament? His hon. and learned Friend's indisposition must not only have prevented his hearing the debate yesterday, but of knowing what was said, for if he had read what had been said in that House he could not have fallen into the gross error which he had displayed. The point at issue was not whether it was lawful to assign pensions. Who had ever said that a Bishop, if he resigned his bishopric, ought to starve? It was perfectly plain that provision ought to be made for a Bishop who resigned his bishopric, but the question was—and had the hon. and learned Gentleman exhibited only a hundredth part of the acuteness he was known to possess he must have known it—whether they ought to have, or had they ever had, an individual bargain for the resignation of a bishopric in which an engagement to receive a pension was made the condition of resignation, and without which condition the resignation was not to take place. The hon. and learned Gentleman produced two cases from Strype's *Life of Archbishop Grindal* to show the folly and inutility of the proceedings of his opponents.

To support the doctrine he laid down the hon. and learned Gentleman quoted the case of a Bishop of Durham, and said it was perfectly plain there was no bargain in that case, for the words were, "*sentiens se annosum, valetudinarium, et infirmum, &c., Episcopatum suum Dunelmensem, obtentâ tali à Domino Papa licentiâ, resignavit.*" Had it been that this Bishop had said he would resign if the Pope or the Archbishop would give him a pension, the case would have been parallel; but the "*resignavit*" preceded the words "*et datis ad hoc provisoribus.*" The pension was provided by the will of the Pope, and when complaint was made, not of any bargain, but that too large a provision was made to the injury of the successor in the see, that complaint was found to be groundless, and the accusers were repulsed *cum probis*. So much for the case of the Bishop of Durham. He did not think the hon. and learned Gentleman would return to that case; at any rate, he distinctly gave him the challenge that there was not one syllable in the recital upon the subject of bargain; and the bargain here was the whole question. The precedent quoted had no more to do with it than with the question of Magna Charta. Then there was the case of Archbishop Grindal. He had not had an opportunity of examining fully into it, but, so far as he had been able to look into that case upon the instant, and so far as his recollection served, as to the peculiar circumstances attending the resignation of Archbishop Grindal, he thought it did not make one bit more in favour of the hon. and learned Gentleman's argument than did the case of the worthy old Bishop of Durham that he had quoted. Archbishop Grindal never voluntarily resigned at all. He was particularly obnoxious to Queen Elizabeth. Queen Elizabeth considered him a very bad Archbishop of Canterbury, and so strong was her opinion, that she actually suspended him from the discharge of his duties altogether. He was not quite certain whether that suspension continued to the end of his life or not—perhaps he might have resumed the administration of the see. At any rate he continued in possession of the see; but Queen Elizabeth signified her pleasure to Archbishop Grindal that he should resign, and the signification of the pleasure of Queen Elizabeth, he need not say, was more full of meaning than anything which proceeded from him, or even anything which pro-

ceeded from his hon. and learned Friend the Solicitor General. There was no doubt that the whole meaning, purport, and significance of the communication from Queen Elizabeth was that he should resign. That was the basis of the whole transaction; but did Archbishop Grindal, or did he not, write to the Minister and say he was ready to resign, or did he write and say that he was ready to resign upon the assurance that he should have a pension?—for it was admitted that it was perfectly justifiable and honourable for a Bishop to ask for maintenance during the remainder of his life, and that was the outside of what Archbishop Grindal did. In his petition he apologised for not having offered to resign before, and then he continued—

"These were the considerations which hitherto had stayed him from offering of this resignation of his place. But now, knowing Her Majesty's mind, he would do it with all his heart; and would prepare himself accordingly to satisfy her pleasure, hoping for her favour, which he esteemed above all worldly things; trusting yet, and humbly praying, that by his lordship's means she would permit and tolerate him to continue in place till a little after Michaelmas next, when the audit of the see was kept for the whole year; that he might see some end of his said suits, the finishing of his school, and the multitude of his poor servants provided for; meaning in the meantime, both by his officers and himself, by God's grace, to have a vigilant care for the good government and well ordering of his cure. In which time he should also be more able to make a perfect account of all things, to the satisfaction of his successor.

There was nothing in his petition of a bargain for so much per annum. The Archbishop said he was ready to resign. He stipulated only for provision for his poor servants, to finish some matters in hand, and to give a more perfect account of all things.

"And after that time he would be most ready, with all humble thanks to Her Majesty, to resign his place unto Her Highness's disposition. Which favour he wished to obtain by the interest of him, the Lord Treasurer."

Then came a passage which had been quoted, to the effect that he had two petitions; one that he should be allowed the house at Croydon, and some small grounds pertaining to the same of no great value, and that he should not be held liable to his successor for dilapidations. [An Hon. MEMBER: That is very like a bargain.] Very like a bargain! why Archbishop Grindal neither made nor attempted to make a bargain. He resigned unconditionally, and there was not a syllable in

the engagement to resign that would serve the argument of his hon. and learned Friend. His hon. and learned Friend said this was not a corrupt transaction, because it was a transaction *in facie ecclesiæ*. Were they really to take it for granted that the law was, as laid down by the Solicitor General of Her Majesty's Government, that a transaction with regard to resignation of benefice, if done publicly, removed all taint of simony, and made it a prudent, safe, and pure transaction? He could hardly suppose that his hon. and learned Friend intended the Committee to take that for law, but, if he did, he (Mr. Gladstone) must really request him to give his authority, and show them where it was so laid down in the Ecclesiastical Law. Where was his authority for defining simony as a resignation secretly made for money; but that, if the resignation were made for money publicly and under the sanction of the constituted authority, the bargain so made was not simony? Would the hon. and learned Gentleman produce his authority for that proposition? If not, his mere *dictum* could not be accepted. It was certainly in total contradiction to all that he (Mr. Gladstone) had ever heard or read. What a happy invention it was on the part of the Solicitor General! His (Mr. Gladstone's) right hon. Friend (Mr. Walpole) did not consider publicity a cure for simony. Where, then, was the authority of the Solicitor General for his definition? Where was his authority to show that at any period in the history of the Church it had been permitted to make a bargain to resign a spiritual cure for money, and that that transaction was to be considered a lawful and legitimate one because it was carried on publicly? He entirely dissented from such an opinion, and held his judgment in a state of suspense with respect to the law which his hon. and learned Friend had laid down.

THE SOLICITOR GENERAL said, it was much to be regretted that his right hon. Friend had not been brought up to the bar, so great was the legal talent he had displayed, so great were his powers of special pleading. Observe the art with which he had shifted his ground. He had denounced the Bill, but now with a dexterity that would have done honour to a pleader, he changed the question into an inquiry into a Bishop's letter. He (the Solicitor General) had read to the House the case of the Bishop of Durham, and the right hon. Gentleman had endeavoured

Mr. Gladstone

to pervert it to his own views. Unfortunately, however, in olden times a custom prevailed—and this only showed how dangerous was “a little learning”—that when a Bishop wished to retire he made application that *provisores* might be appointed to make provision for him, and his resignation was always conditional upon that being done. When this Bishop of Durham desired to resign he made application for a residence to be assigned to him, and his resignation was always conditional. [Mr. GLADSTONE: Where does he stipulate? Where are the words?] “*Et datis ad hoc provisoribus.*” What was the case with regard to Archbishop Grindal? He threw himself upon the consideration of the Queen, but he stipulated for his house at Croydon, for freedom from liability on account of dilapidations, and for a provision for his domestics. These three things were granted before he resigned. With regard to what the right hon. Gentleman had imputed to him on the subject of simony, he denied having said that an act would be less simoniacal because it was done *in facie ecclesiæ*. What he said was that it was evidence there was no corruption when it was done *in facie ecclesiæ*. He had also said that by the statute of Henry VIII. the metropolitan might have legally made these arrangements without the necessity of an Act of Parliament, but that the peculiar circumstances connected with the cases of London and Durham he considered required an Act of Parliament.

MR. GLADSTONE said, he was very sorry that this conflict had arisen, but, as it had, they had better fight it out. They stood there upon a footing of equality. His hon. and learned Friend complained of his (Mr. Gladstone's) art as a pleader; but surely that was not a particular in which the hon. and learned Gentleman was taken at a disadvantage. He hinted at what he (Mr. Gladstone) might have done at the bar, but the unhappy fact remained that he had never been there, and on that score the hon. and learned Solicitor General had surely no right to complain. His hon. and learned Friend had made a quotation respecting the resignation of Archbishop Grindal, but that quotation was in the third person, and they were the words of the historian and not of the Archbishop himself. In Archbishop Grindal's own document he gave his promise to resign absolutely and without the slightest reference to any condition. At a subsequent period, but before the resignation took

place, the Archbishop asked for the house and manor of Croydon, but he never attempted to qualify his promise of resignation. The promise of his resignation was one thing; the asking for a residence was another thing. Now, in the Bill before the Committee, these two things were connected by an indissoluble link, but in the case of Archbishop Grindal they were separate and entirely distinct. That was the case he wished to establish. The Committee could not fail to mark the contrast between the confidence with which his hon. and learned Friend commenced this discussion—producing this volume in their faces, and saying that any man who had considered the Ecclesiastical Law for a single hour might see the whole thing, and then ending in a tone of triumph with his *sic repulsi sunt accusatores cum probris*—and the subdued tone with which he had made his second quotation. The hon. and learned Gentleman then hung over his book in a manner much more gingerly, and did not indulge himself in that facility and promptitude of citation which had marked his first address. He made such a *jejune* and faint reference to the document as a man would do who only had “a little knowledge” of his subject, or who was venturing to speak upon it without having given so much as an hour to the study of ecclesiastical history. But let the Committee simply read the document, and then would they see who was right:—

“Purificatione Beatæ Mariæ imminente, Episcopus Dunelmensis Nicolaus, sentiens se annum, valetudinarium, et infirmum, &c., Episcopatum suum Dunelmensem, obtentâ tali à Domino Papa licentiâ, resignavit.”

That was the first portion of the document. Now, his assertion was, that the recital of the resignation was a thing apart from the question of the provision made for the Bishop, precisely as, he contended, ought to be the case with regard to the provision for the Bishops of London and Durham. The document then went on to say—

“Et datis ad hoc provisoribus, Archiepiscopo Eboracensi et Londinensi et Wigornienſi Episcopis, assignata sunt ei tria maneria, — viz., de Hoveden cum pertinentiis, Stoctuna et Esingtona.”

This constituted the whole case between him and his hon. and learned Friend, and, without troubling the Committee further, he would leave them to decide who had taken the more correct view of the subject.

MR. NAPIER said, that if “a little learning” was dangerous there was sometimes even more danger in great learning. He (Mr. Napier) contended that there could be no lawful resignation without a condition annexed, and he would test that in this way. Would the hon. and learned Gentleman be content to let the Bishop of London send his resignation to the Archbishop, and let the Archbishop assign him a third of his income? He was surprised to hear the hon. and learned Solicitor General attempt to confuse the Committee by his mystifications upon a very simple question, and he challenged the hon. and learned Gentleman to state before the Committee that there had been an unconditional resignation.

THE SOLICITOR GENERAL said, that to say a man could not bargain to resign upon such terms as the law allowed him to do was an idea consistent neither with law nor with common sense. He repeated there had been no corrupt bargain; and the resignations had not taken place under the statute of Henry VIII., for reasons he had already stated.

Amendment *negatived*.

Clause *agreed to*; as was also Clause 2.

Clause 3 (Pensions to be payable to the said Bishops).

MR. T. DUNCOMBE said, he should propose, as an Amendment on the clause, to omit the words conferring the pensions.

Amendment proposed, in page 2, line 14, to leave out from the words “There shall be,” to the word “life,” in line 17.

COLONEL NORTH said, he would take that opportunity of protesting against the speech of the hon. Member for Sheffield (Mr. Hadfield). The noble Viscount at the head of the Government might just as well be reproached for the thousands of pounds he had received from the public during his long and splendid career. When the hon. Member talked about the receipts of the two right rev. Prelates he should remember their public services and their munificent charities.

MR. HADFIELD said, he could not understand the hon. and gallant Member's speech. The hon. and gallant Gentleman had not attempted to refute his (Mr. Hadfield's) figures; he had only told them that these two Bishops were charitable. Charitable! With whose money had they been charitable? There was one who would not take robbery for sacrifice; and for those two Gentlemen to take bread of ten thousand families fixed a stigma upon the coun-

try. He dared not express what he felt when they talked to him of the charities of men who luxuriated on such incomes, drawn from such sources, and paid them for such services.

MR. GLADSTONE said, he considered that these discussions were of a very painful character. The Bishops did not boast of their charity. If there had been any vaunting at all on the subject, it proceeded from men of all parties who had a warm and conscientious admiration of the liberality of those right rev. Prelates. It was most desirable that the Committee should decide on the Amendment. He did not know whether it was the intention of the hon. Member for Finsbury to name a smaller pension, but he (Mr. Gladstone) accepted the Amendment as an objection to granting any pension as a condition of resignation. There was a difference between the case of the Bishop of Durham and that of the Bishop of London. The former succeeded to his diocese under a regulated income of £8,000 a year, and it was from a defect of the law that he had received a larger sum. The Bishop of London, on the other hand, entered upon his see quite free from any stipulations or Parliamentary enactments. In estimating the pension of the Bishop of Durham, Parliament ought, therefore, to regard the annual salary of £8,000, and not make a calculation on the basis of emoluments which accidentally resulted from the faulty provisions of the Act of 1836.

MR. HEADLAM said, he could willingly bear testimony to the liberality of the Bishop of Durham's charitable donations in his diocese.

MR. CARDWELL said, he should vote against the Amendment, not wishing to withhold all pension from these Prelates. He concurred in thinking that the allowance to the Bishop of Durham should be regulated by the salary that he ought to have received, not by the amount which he had received owing to the unfortunate circumstance of the Act of Parliament being nugatory.

MR. T. DUNCOMBE said, he was opposed to either of these Prelates having pensions upon the conditions expressed in their correspondence with the Prime Minister.

MR. WIGRAM said, he held that, irrespective of any contract between the Bishops and the Minister of the day, a Prelate who had served his country so long was entitled to an allowance of not

Mr. Hadfield

less than one-third of the existing salary on his retirement from old age or infirmity.

Question put, "That the words 'paid to the said Bishop' stand part of the clause."

The Committee divided:—Ayes 105; Noes 30: Majority 75.

MR. ROEBUCK said, he would now move to omit the words "six thousand," from page 2, line 15, and insert instead the words "three thousand five hundred," as the amount of the retiring pension for the Bishop of London. He understood that by the new regulations the salary of this Bishop would be £10,000; and, therefore, one-third of that sum would form a fair retiring allowance.

* Question put, "That the words 'six thousand' stand part of the clause."

The Committee divided:—Ayes 104; Noes 19: Majority 85.

House resumed.

Committee report progress; to sit again *this day*.

THE AFFAIRS OF SPAIN—QUESTION.

MR. MURROUGH said, he would beg to inquire of the First Lord of the Treasury, whether the Government were prepared to adopt any and what means for the prevention of the armed interference of France in the internal affairs of Spain?

VISCOUNT PALMERSTON: Sir, I apprehend that there is at present nothing in regard to the affairs of Spain which could lead to any interference on the part of the French Government with those affairs. The Emperor of the French is a man of great justice, and would, I think in any case, feel that foreign interference with the affairs of the Spanish nation, except under circumstances which we cannot foresee, would be unjust. He is also a man of great sagacity, and the lessons of the past teach that those Sovereigns of France who have been led to interfere in the affairs of Spain have always, sooner or later, found that interference more or less disastrous to themselves. There can be no reason for apprehending that there is on the part of the French Government any intention to interfere in Spain.

ROMAN CATHOLIC CLERGY IN INDIA—QUESTION.

MR. GROGAN said, he would beg to ask the right hon. Gentleman the President of the Board of Control, whether any minute had been made by the Government

General of India, recognising delegates from the see of Rome, under the style and title of Vicars Apostolic, as the official channels of communication with the Government in matters connected with the Roman Catholic Church, and admitting the propriety of addressing the aforesaid Vicars Apostolic in official communications according to the ecclesiastical rank and position bestowed upon them by the Pope? Whether the Roman Catholic Bishops at each seat of Government were to be allowed a certain salary to enable them to send Returns, and to correspond with the Government? Whether a Roman Catholic priest, with a fixed salary, was to be allowed at every station where there might be British-born Roman Catholics, although there should be no European regiment stationed there? Whether the Roman Catholic priests were to be allowed to receive medical attendance and medicines gratuitously in certain cases? Whether grants were to be given in aid of building Roman Catholic Chapels? And whether, although the Government orphanages were open to Roman Catholic children as to all others, a sum equal to the cost of maintaining each child is to be paid to Roman Catholic orphanages into which such child shall be received?

MR. VERNON SMITH said, the hon. Member appeared to have based his question rather upon applications which might have been made to the Governor General of India than upon any instructions which were issued by him. There was no Minute of which he (Mr. V. Smith) was aware similar to that to which the first question of the hon. Member related. Instructions had been sent out to India by the Government to the effect that there should be no alteration in the *status* of the Roman Catholic Bishops, and by orders which had been previously sent out they were not entitled to any consideration arising out of the rank which they happened to hold in the Roman Catholic Church. For a long period the Roman Catholic prelates had been allowed a pecuniary stipend for sending returns relating to their co-religionists, which was the best mode the Government possessed of obtaining information on such subjects. Latterly that remuneration had been confined to four Roman Catholic Bishops, of whom there was one in each of the four Presidencies of India. Roman Catholic priests at military posts, where European regiments were stationed, had always been allowed a fixed salary, and a

similar privilege had lately been extended to stations where there were British-born Roman Catholic subjects employed in the civil service, the rule in India being that in those cases in which men were engaged in that service their religious education should be provided for. They had also been allowed to receive medicines and medical attendance gratuitously, owing to the difficulty of procuring those necessities at remote stations. With respect to the last question, he should state that he was not aware that a sum equal to the cost of maintaining each child was to be paid to Roman Catholic orphanages in particular. Instructions had, however, been sent out to the effect that every attention should be paid to the teaching of Roman Catholic children in the several districts.

MR. GROGAN said, he desired more particular information as to the dignity and position of the Roman Catholic Bishops.

MR. VERNON SMITH said, that the only information he could give the hon. Member was, that those prelates were not entitled to any consideration in consequence of their rank and condition in the Roman Catholic Church.

THE MISSION TO BELGIUM—QUESTION.

MR. W. WILLIAMS said, he had seen it stated in the *London Gazette* that the Earl of Westmorland had been sent by Her Majesty on a mission of congratulation to the King of the Belgians. He begged to inquire at whose expense that mission had been undertaken?

VISCOUNT PALMERSTON: I am afraid that my hon. Friend will have to contribute his share.

EXPULSION OF JAMES SADLEIR.

MR. ROEBUCK said that, according to the rules of the House, he was entitled to precedence in the Motion he was now about to submit, which was one for the expulsion of a Member. He was about to ask the House to exercise a power inherent in it, and which was of the greatest importance as regarded the maintenance of its honour, its efficiency, and its influence in the country. He would not call upon hon. Members to use that power on light grounds, nor upon an occasion when it could be said that their act would tend to the establishing of a precedent dangerous to that House. He would not ask them to pass judgment by way of punishment on a man whom he supposed to be

guilty, but to free themselves from the companionship of a man who had disgraced himself in the eyes of the nation. He would not ask them to constitute themselves, and assume the functions of a Court of adjudication, for those functions, properly speaking, they did not exercise. All he desired was, that hon. Members should satisfy their own consciences as to the truth of the statements which he was about to lay before them: and if, as was the general rule, they would take the observations of one hon. Member as to facts of which he himself was cognisant to be correct, he felt no doubt that they would accede to the Motion which he had risen to propose. That Motion was, that Mr. James Sadleir, Member for the county of Tipperary, be expelled this House. The grounds on which he made the proposition were briefly these:—He did not say that Mr. Sadleir was guilty of the charges brought against him; with that he (Mr. Roebuck) had nothing to do. All he had to say was, that charges had been brought against him derogatory of his honour and destructive of his power and capacity as a Member of that House—charges which, not being rebutted by him, were a disgrace to that House as long as the person to whom they related continued a Member of it. Such were the accusations that had been brought against Mr. Sadleir. Into their truth he would not inquire, but what he did charge against him was, that, knowing that these accusations had been made against him, he fled from justice and did not attempt to defend himself. The charge which he (Mr. Roebuck) made was, not that he was guilty of a crime, but that, having fled from the accusation of one, he had confessed himself guilty of it. All that he had to make out was, that Mr. Sadleir had fled from the charge. The proof of that fact, he considered, would suffice to justify his expulsion. The first thing to be done was to show that he had been charged with a crime. On that point the papers that had been laid upon the table furnished abundant evidence. The bill of indictment found at Clonmel Assizes by the grand jury of the county of Tipperary—a document of which he held in his hand a certified abstract—attested that, upon the 18th of July, the grand jury returned against him a true bill, charging him on eight counts with fraud. That, be it observed, was on the 18th of July. On the 20th of June, the Master of the Rolls in Ireland used these words in delivering a

Mr. Roebuck

judgment:—"It is now necessary to go to the succeeding stage of these proceedings, which I believe is unparalleled in the annals of fraud." So that, as early as the 19th of June, Mr. Sadleir must have known that he was charged with fraud. Last Friday, he (Mr. Roebuck) gave notice that he should call upon the honourable Member for Tipperary—no, his tongue had made a lapse—he would not call him the honourable Member, but the Member for Tipperary, to be present in his place while he (Mr. Roebuck) made a Motion for his expulsion. It appeared, therefore, that the Member had had notice, first, that in a judgment delivered by the Master of the Rolls, as far back as the 20th of June, he was charged with fraud; and, secondly, that on the 18th of July a Bill of indictment for that offence was found against him in the town of Clonmel by the grand jury of the county of Tipperary. Nor was that all. Some time previously a warrant for his apprehension had been issued by the Government, and the House had sent their messenger in search of him both to Dublin and to Tipperary. He was not to be found. He was not in the House, nor had they been able to discover him elsewhere. The inference was, that he had fled from justice, and, having done so, he asserted that he was not worthy to sit as a Member of that House. It might be said that he (Mr. Roebuck) was about to commit the House to a perilous precedent; and this case had been put to him, "Suppose that you had gone to America, and that some Member were to get up in his place and to give notice that next Thursday he should move that Mr. Roebuck do appear in his place on a subsequent day, when a motion for his expulsion would be submitted, what would you say to such a proceeding?" His answer was, that if he had been charged with fraud by the Master of the Rolls, if a bill of indictment had been found against him, if a warrant had been issued against him, and if that House had sent out their messenger to find him, and if, notwithstanding all these proceedings he had failed to appear in his place, he should deserve to be expelled. But it might be asked, "Why act with haste in such a matter? Where would be the danger in waiting till next Session?" Waiting till next Session! Had they not waited long enough already? Was this a case for delay? To protract it further was as though a man should lie down by the side of a dead body and attempt

to compose himself with the noisomeness thereof. This man had disgraced the House, had brought shame and ignominy on the House, and the House, if it regarded its own honour, had nothing for it but to cut off the peccant Member. His expulsion, hon. Members must be aware, would not render him incapable of being again elected. The case of John Wilkes had established that fact. Though they should expel him that evening, it would be competent for him to go down to Tipperary to-morrow and solicit the suffrages of the constituents. But would he do so? He (Mr. Roebuck) would appeal to any Member of that House to say whether he did not in his heart believe that Sadleir had evaded the law, and that, in expelling him, the House would only be doing justice both to him and to themselves? Precedents were not to be disregarded on a question of this kind, and, if required, they could be cited. It might, no doubt, be argued that there had been in the case of the Member for Tipperary no conviction; but it was by no means necessary for his (Mr. Roebuck's) case to prove that there had been, inasmuch as the other grounds upon which he had based his Motion were, in his opinion, amply sufficient to recommend it to the adoption of the House. One of those grounds was that James Sadleir had evaded public justice; and a man could be supposed to take that course only for one of two reasons—either because he imagined he would not have a fair trial, or because he was conscious of guilt. The former reason could not, as hon. Members well knew, have any force in the case of the Member for Tipperary; therefore, the only conclusion at which they could legitimately arrive was, that he knew himself to be guilty and had sought safety in flight. But to advert to precedents, he (Mr. Roebuck) might observe that there was one to be found in 5 Geo. II., in the year 1732. In that case George Robinson had had the following charges made against him, and the following Resolution passed in his regard:—

“George Robinson, Esq., having been charged in Parliament with being privy to, and concerned in, many indirect and fraudulent practices in the management of the affairs of the Charitable Corporation for the Relief of Industrious Poor, and having never attended the service of this House, although required so to do, is guilty of a high contempt of the orders and authority of this House; resolved, that for his said offence he be expelled this House.”

Now, was not that a case exactly parallel with the one before the House? Mr. James Sadleir had been charged with fraud; he had been summoned, but he did not comply, and failed to appear in his place in that House. The Master of the Rolls, as far back as the 19th of June, gave him clearly to understand what was hanging over his head; the grand jury at Clonmel found a true bill against him; warrants had been issued against him by the Crown, but he had not been found. What greater proof, therefore, could they have that he had evaded justice? Another case that might be cited was that of Mr. Benjamin Walsh, who had been tried and convicted of fraud; but the conviction had subsequently been quashed, yet, notwithstanding that circumstance, the House proceeded to expel Mr. Walsh. On that occasion, Sir Francis Burdett observed:—

“He was very far from being a stickler for what were called the privileges of Parliament, but certainly, if there was a privilege or a power in any body or assembly less disputable than another, he conceived it to be that of declaring any one of the individuals of which they were composed unfit and unworthy of associating amongst them. It was, at all events, a power which, when compared with the other extraordinary privileges assumed by Parliament, appeared to him to be of all others the least liable to abuse, because if any member was expelled from any motives of party zeal or personal persecution, a remedy would be open to him in an appeal to his constituents, who, if they thought differently of his conduct, could unquestionably restore him to his seat.”—[1 *Hansard*, xxi. 1187.]

Mr. Wynn, a great authority on Parliamentary matters, also said that—

“The object of the present Motion was not to punish Mr. Walsh, but to take a very important trust out of the hands of a person entirely unworthy to hold it.”—[*Ibid.* 1194.]

Mr. Perceval remarked, as to the previous case of the Member charged with misappropriating the funds of a charitable corporation, that there had been no legal conviction, yet the House was not content with simple expulsion—it also asked for a legal prosecution. Thus it appeared that the House, after expelling a Member, went further, and addressed the Crown to institute a prosecution against him. It did not wait for a conviction before it acted; and even after the acquittal of Mr. Benjamin Walsh, it thought itself justified in expelling a man who had been legally pronounced innocent. It said it was morally convinced of his guilt, although by the laws of his country he had been allowed to escape;

and that not as a court of justice, but as a body of persons called upon to satisfy their own consciences, they were persuaded the individual in question was unworthy to hold the important trust confided to a Member of that House. Such being his opinions, and feeling that every hour the representative for Tipperary remained a Member of that House, the power, the consideration, and the honour of that assembly were tainted and impaired, he should beg to move the expulsion of Mr. James Sadleir on the grounds set forth in the statement which he had just made.

MR. NAPIER said, he rose to second the Motion of the hon. and learned Gentleman, which raised a most important constitutional question. The jurisdiction which the House was invited to exercise concerned not only its own character and honour, but also the interests of the constituency of Tipperary, now left substantially without a representative. A notion very generally, and perhaps very naturally, prevailed, that the House at that moment had not materials technically sufficient to act upon. That impression doubtless arose from confounding the jurisdiction of that House with the ordinary jurisdiction of the courts of law. They could not examine witnesses on oath, they did not proceed on technical grounds, but rather on what satisfied the conscience of the House. That assembly being the exclusive judge of the worthiness of its own Members had now to determine whether, having regard to facts well known to them all, and on which they could fairly act, it was not due to the honour and dignity of Parliament that James Sadleir should no longer be suffered to retain his seat? In matters of that kind they must be governed by established usage and precedent. A Committee of that House sat in 1807 to examine into all the precedents of the expulsion of Members; and in the Report of that Committee all the precedents down to that date were set forth and classified. It was remarkable that by far the greater number of them were cases in which there had been no legal conviction. It should be observed *in limini*, that in one or two singular instances of this description the House proceeded first to expel the person whom it regarded as an unworthy Member, and then addressed the Crown to direct the Attorney General to prosecute him—thus marking the distinction which it drew between the case of Members whom it

Mr. Roebuck

deemed not entitled to the appellation “honourable,” and that of those who might or might not be legally convicted of crime. A man indicted for a heinous offence might elude punishment on some purely technical point, and yet in substance and in fact be really unfit to remain a Member of that House. There was a class of offences—such for example as the frauds in regard to which the Attorney General for England had brought in a Bill in the course of the Session, and the Attorney General for Ireland had promised to bring in one next Session,—which were undoubtedly grave crimes *in foro conscientie*, although not indictable by the law of the land. It therefore became the duty of the House, without setting themselves up as affected purists, honestly to inquire whether one of their own Members was not proved, by notorious facts to which they could not shut their eyes, to have evinced a degree of moral turpitude which disqualified him from remaining enrolled in the list of that assembly. On such questions the House acted on the statement of one of its Members in his place. And why so? Because they were bound to repose confidence in the honour of each other, the principle being that hon. Members, though returned for particular constituencies, were all bound together, as, in a sense, representing the whole community. In the Report of the Committee to which he had referred, the precedents were chronically arranged, and the first one enumerated was very remarkable. It happened in 1558. Mr. John Smyth had defrauded several merchants in London, and the question was raised whether he was entitled to the privilege of Parliament in regard to legal process. In *Hatsell*, p. 81, it was stated:—

“It should seem from the words of the order that the doubt was . . . whether a man who appeared to the House to have been guilty of so gross a fraud ought any longer to continue a Member. And as Prynne says, ‘How honourable this vote was for the House in the case of such a cheating Member, carried only by five voices, is not fit for me to determine.’”

Again, the case of Sir John Leeds, in 1620, was that of a Member who, having been committed to the custody of the Serjeant-at-Arms, made his escape; and it was remarked, in the fourth volume of *Hatsell*, page 109, in a note, that “having by his flight acknowledged his guilt, he is expelled the House of Commons.” Passing over many intermediate precedents, and coming to the period subsequent to the

Revolution of 1688, there was the case of 1710, in which the House resolved, *nem. con.*:—

“That it appears in this House that Thomas Ridge, Esq., a Member of this House, is guilty of great fraud and abuses, by having contracted to furnish 5,513 ton of beer upon his own account, and 2,704 ton of beer in partnership with Mr. Dixon, and having received bills for the whole; although he delivered but 3,213 ton on the first, and but 1,269 upon the latter contract; that the said Thomas Ridge, Esq., be, for the said frauds and abuses, expelled this House; that an humble address be presented to Her Majesty, that she will please to give direction to Her Attorney General to prosecute the said Mr. Ridge for the said frauds and abuses.”

He would not refer to the South Sea cases, because their circumstances were peculiar. The ground upon which Mr. Robinson—to whose case the hon. and learned Member for Sheffield (Mr. Roebuck) had referred—was expelled, was thus declared in the Resolution of the House of Commons:—

“Resolved, that George Robinson, Esq., having been charged in Parliament with being privy to and concerned in many indirect and fraudulent practices, * * * and having never attended the service of this House, although required so to do, is guilty of a high contempt of the orders and authority of this House.”

The expulsion was not based upon the charge of fraud, but simply on the ground that Mr. Robinson having been ordered to attend in his place, and having failed to do so, he had been guilty of contempt of the House. He found, from the Journals, that in the following year an Address to the Crown was agreed upon, praying that the Attorney General might be directed to prosecute the expelled Member. The next case to which his (Mr. Napier's) attention had been directed was that of Mr. Atkinson, who was indicted for perjury; a verdict was found against him, but he was never called up for judgment. The Attorney General for that day stated the whole process against Mr. Atkinson, the issue of which, he said, was,—

“That Mr. Atkinson had absconded from the justice of his country. In this situation it became Parliament to attend to their own dignity and importance. The Member had been indicted, in his opinion, on the clearest and most unexceptionable evidence, for what the laws of this and every other country held a very grievous offence; and the question would naturally be with Gentlemen, how was the House to act in such a case? Every society, in his opinion, were competent to their own preservation. It was the duty of Parliament, as he conceived, for that reason, to come to an immediate decision on a point, in which its honour and respectability were so essentially interested.”

In the present case, indictments had been found against James Sadleir; he had absconded from justice; the Attorney General for Ireland and the Government had done everything in their power to cause his apprehension; a warrant had been issued against him, and a reward had been offered for his capture. An order of that House had been made, requiring the attendance of Mr. Sadleir: and, as he had neither appeared to answer the indictments nor obeyed the order of the House, he (Mr. Napier) considered that the precedents he had quoted fully justified his expulsion. In the case of Lord Cochrane, Lord Castlereagh said:—

“Indeed, it never had been held that expulsion could rest upon any other grounds than that the Member expelled had not delivered himself from the charge legally charged upon him, and that therefore he was not a fit person to remain in this House.”

He (Mr. Napier) thought that opinion of Lord Castlereagh, and the opinion of the Attorney-General in the case of Atkinson, fully justified the House in adopting the Motion of the hon. and learned Member for Sheffield. When a Judge had declared in public Court that James Sadleir had been guilty of gigantic frauds; when it had been stated in a judicial judgment that those frauds had resulted from a conspiracy; when the charge had been embodied in informations; when warrants had been issued; when indictments had been found by the grand jury, which James Sadleir did not appear to answer; and when, having been ordered to attend in his place in that House he had neglected to do so, he (Mr. Napier) would ask whether it was right and fitting that the constituency of Tipperary should be left with such a person as their representative, and whether he should still be the companion of Members of that House, and entitled to claim the title of “honourable”? The Attorney General for Ireland had stated that the case was one of such a special character that the opinion of high legal authorities in Ireland, that James Sadleir should not be prosecuted by the Crown, had been overruled, and the Attorney General had himself undertaken the prosecution. The case of Mr. Walsh was one of a very remarkable character. He was charged with felony; but the opinion of the Judge was that the offence did not amount to felony. On the Motion for his expulsion there were in the minority of eighteen the names of some of the most honoured

that outlawry, although the law did not consider a judgment of outlawry tantamount to an admission of guilt, yet if that step was arrived at, the House would have something on which it might act, and, if it thought fit, expel Mr. Sadleir. He would now allude to another matter. It would be recollected that on Monday last the House made an order that Mr. Sadleir should attend in his place on that day. As yet the House had not before it what took place upon that order, but he might state that on Monday evening one of the messengers of the House proceeded to Ireland, and on the following day (Tuesday), he served the order at the residence of Mr. Sadleir, in the county of Tipperary. Also, on the same day, he served the order at a place pointed out to him in Dublin where Mr. Sadleir had once resided, and likewise upon parties who were represented to him to be the solicitors who acted for Mr. Sadleir, in the Tipperary Bank case. It thus appeared that due diligence had been used; but they could not shut their eyes to the fact that it was only on Monday last that the Order of the House was made, and that it was not until the following day that it was served at the residence of Mr. Sadleir, in Tipperary. He made this preliminary statement to enable the House to form its judgment. Speaking of the case generally, he did not say that it was his intention, or the intention of the Government, to resist the Motion of the hon. and learned Member for Sheffield (Mr. Roebuck). The case was peculiarly one for the House itself to determine. It involved the honour and character of the House, and the House ought to deal with it in its judicial capacity. But it behoved them, the proceeding being judicial in its nature, to act with great care and with prudent examination beforehand. The hon. and learned Member for Sheffield said he did not call upon the House to come to the conclusion that the charges were true and the right hon. and learned Gentleman the Member for the University of Dublin (Mr. Napier) asked the House to proceed, not on evidence but on conscience; but he would say that in a judicial proceeding they should proceed with great care, and in his judgment if they made an Order in accordance with the Motion they would take a very dangerous step. He did not say that the Motion ought to be resisted. It was a proper Motion, but the decision of the House upon it, he considered, ought to be deferred,

Mr. J. D. FitzGerald

inasmuch as the time had not yet arrived when they could act upon anything before them. He could not forget that the House had already by statute, with respect to seats affected by election petitions, denuded itself to a great extent of the power which it once exercised and in some cases abused; had confined that power within narrow limits; and had decided that in its proceedings it ought to be guided by something like legal evidence. In the case of Mr. Sadleir, his opinion was that, having regard to the constitution, the House ought not to pronounce a judgment without a proper preliminary inquiry—without either a confession of guilt or an amount of legal evidence tantamount to it. Nothing had yet occurred to justify the House in coming to the conclusion that there had been an admission of guilt. There was not to be found one solitary case in which the House, unless in times of violence, when might and not law regulated its proceedings, had expelled a Member without either a conviction, a confession of something which rendered him unfit to continue in his seat, or some inquiry at the bar or by a Select Committee. All the precedents which had been referred to classed themselves under one or other of those categories. In the first—that of Mr. Robinson, in 1732—a Select Committee was appointed to inquire into the alleged frauds. Mr. Robinson, however, was not expelled for fraud, but for contempt, he having obstinately refused, after due notice had been served upon him, to appear and answer the charge before the House. The case of Mr. Benjamin Walsh in 1812, was one of conviction for felony, but the charge of felony contained within it an accusation of gross fraud, whatever might be the legal definition of the crime. Walsh, in fact, could not have been convicted unless the jury had found the truth of this charge of fraud. After his trial and conviction the Judge came to the conclusion that, though the charge was true, yet in its legal definition it was not felony. Such was the state of the case when the House undertook to deal with it. The charge of fraud was found to have been established beyond the shadow of a doubt, and, although that fraud did not amount in a legal sense to felony, the House very properly expelled the Member. In almost all the cases which had been referred to the Member was either personally present or had made an admission of his guilt. He did not put these cases forward

to prove that the House could deal only with cases of crime. If a Member had been guilty of that which tainted his moral character—which, though not a legal crime, made him unfit to continue in his seat—the House might and ought to expel him. Nor did he wish to say that, in order to warrant the expulsion of Mr. Sadleir, the House must come to the conclusion that crime had been committed. The House need not even enter into that question, but if it found that he had been guilty of fraud of such a character that he ought not to be allowed to consort with the Members of the House, it would then be its duty to expel him. None of the cases which had been referred to, including those mainly relied upon by the hon. and learned Member for Sheffield, were at all similar to that of Mr. Sadleir. In the case of Mr. Wilkes, which bore no analogy to the present, a speech was delivered by Mr. Grenville, which pointed out very clearly what course the House ought to pursue. Mr. Grenville said—

“Whenever this House has expelled any Member it has invariably assigned some particular offence as the reason for such expulsion. By the fundamental principles of this constitution the right of judging upon the general propriety or unfitness of their representatives is intrusted with the electors; and, when chosen, this House can only exclude or expel them for some disability established by the law of the land, or for some specific offence alleged and proved.

We are now acting in our judicial capacity, and are therefore bound to found the judgment which we are to give, not upon our wishes and inclinations, not on our private belief or arbitrary opinions, but on specific facts alleged and proved according to the established rules and course of our proceedings.”—[*Hansard, Parl. History*, xvi. 561.]

In that advice so given by Mr. Grenville, the House would find the soundest principles to guide its proceedings, and a course of action laid down, which he hoped would never be departed from. The only precedent which he could find that had a distinct bearing upon the matter before the House was the case of Mr. Hunt, in 1810. Mr. Hunt held the situation of Treasurer of the Ordnance, and, upon the Report of a Commission, was charged with being a defaulter, and with having misappropriated public funds to the extent of £83,000. The Report of that Commission had been on the table some time when Mr. Calcraft gave notice that he would, upon the 4th of April, 1810, bring the case before the House; but on an intimation from the Speaker that his notice had been too short, he withdrew it, and gave notice again for the 17th of April.

Upon that day, again at the suggestion of the Speaker, he deferred his Motion, and it finally came on for discussion on the 23rd of May. It appeared then that Mr. Hunt had gone to Lisbon, and that an Order of the House had been served upon him. Mr. Calcraft also produced a letter, which was proved to be in Mr. Hunt's handwriting, in which he admitted to have received the Order of the House, and also admitted his guilt, although not to the extent charged against him. The House then came to a Resolution that Mr. Hunt had been guilty of embezzlement, and to the further Resolution that he should be expelled the House. From the course which the present case had taken it was quite unnecessary that he should go through the whole of the precedents, and he would only state that he had examined them with care, and that they all partook of the character which he had pointed out. He had also gone through the records of the Irish Parliament for the last century, and he found that the same rule had prevailed there—that they had expelled Members who had been guilty of crime and of fraudulent misconduct; but that in no case had they done so, except on conviction, confession, or inquiry. In 1703, a Mr. Asgill was expelled. The Resolution stated that the House had examined several witnesses, and found that Mr. Asgill was the author of a certain book, and therefore ordered him to be expelled. He would now see whether there was anything in the present case on which the House could safely proceed. It was said that the charge was made by the Master of the Rolls on the 4th of March, but James Sadleir was no party to the proceedings in that Court, and it was not until the 4th of July that anything took place on which they could act. If he might advise the House, he would say let the Motion stand over until they met again; in the meantime the proceedings would go on, Mr. James Sadleir would either be made amenable and tried, or judgment of outlawry would be recorded against him. In either case then the House would have something on which to proceed. He would only advert to one remark of the right hon. and learned Member for the University of Dublin, who told the House they should proceed on conscience. From that it would appear that the right hon. and learned Gentleman was inclined to view this as a political question. He (Mr. J. D. Fitzgerald) hoped there was no Gentleman in

the House who, on a question where the honour and character of the House were involved, would, under the name of conscience, deal with it in a political spirit. Against such a course he, at least, would enter his solemn protest.

MR. SEYMOUR FITZGERALD said, he quite agreed that this was a matter with which the House could not act with too much caution, but he did not think that the right hon. and learned Attorney General for Ireland had stated to the House what the real facts of the case were. The facts were these:—Mr. James Sadleir's connection with the Tipperary Joint-stock Bank had been the subject of inquiry in the highest Court in Ireland, and the Judge of that Court had found that a letter had been written by the late Mr. John Sadleir to his brother James, pointing out by what means one of the most unparalleled frauds could be carried out. They had it before them that that letter had been found in the possession of Mr. James Sadleir, and also that the directions contained in the letter had been fully carried out by them. [MR. J. D. FITZGERALD: No, no!] Well, at all events, they had the fact that, in obedience to the directions contained in that letter, Mr. James Sadleir put his name to a fraudulent statement in respect to the position of the bank, and also that a fraud of so gigantic a nature had been perpetrated that the whole of the English shareholders, who in consequence of that fraudulent statement had invested money in the bank, were released from their liabilities. Those were the real facts which had been laid on the table of the House in the documents which were produced; and he must say, he was strongly of opinion that they ought, in consequence, to take some steps to secure the honour and reputation of the House. It must be recollected it would be impossible that any trial could take place before the Lent assizes, and therefore until the month of March next, Mr. James Sadleir would occupy the honourable position of a Member of Parliament. There was one thing he wished to know, which was, whether any proceedings of outlawry could be taken before that time? Although it was very true that until a trial and conviction had taken place, the House could not be put into formal possession of the facts of the case, yet he thought that no reasonable man could doubt—after what had been stated by a most upright Judge, who had fully investigated the facts of the case—

Mr. J. D. Fitzgerald

that a great fraud had been committed by Mr. James Sadleir. His right hon. and learned Friend opposite (Mr. S. Wortley) had moved as an Amendment to the Motion made by the hon. and learned Gentleman the Member for Sheffield (Mr. Roebuck) that the papers should be printed. The effect of that would be to get rid of the Motion altogether. The papers were very short, and hon. Members had been placed in full possession of the facts of the case, therefore he thought there was no excuse for not coming to a decision upon the main question.

THE ATTORNEY GENERAL said, he was most anxious to echo the advice given by his right hon. and learned Friend the Attorney General for Ireland, that they ought to proceed with the utmost deliberation in this case. He believed that his hon. and learned Friend the Member for Sheffield was animated with no other desire than to uphold the dignity and the honour of that House. But it must be remembered that they were now exercising a judicial function—they must take care, therefore, that they did not act with precipitancy which might possibly lead to injustice. The House must thoroughly understand, that if they adopted the Motion of his hon. and learned Friend they would establish a precedent; for there certainly had never yet been a case in which the House had expelled an individual Member, since law and justice had prevailed, except upon previous conviction or some Parliamentary inquiry, where the accused had an opportunity of vindicating himself. As far as he (the Attorney General) understood, Mr. James Sadleir was not a party to the proceedings before the Master of the Rolls; neither had he had any opportunity of explaining or refuting the charges which had been brought against him. He (the Attorney General) did not pretend to assert that a conviction was necessary to justify a proceeding of this nature; but, in his opinion, there ought to be some preliminary inquiry by the House into the facts of the case. It must be remembered that the judgment of the Master of the Rolls had been appealed from, and even if it had not, that judgment was not formally before the House. He could not understand why it was necessary that they should act hastily in the matter. It was quite clear that within a few days Parliament would be prorogued. The House, therefore, could not be offended by the presence of Mr. Sadleir, neither could his

constituents receive any injury, because in the interval between the prorogation and the meeting of Parliament they would have no need of his services. In the meantime, Mr. Sadleir would be required to surrender and take his trial. Upon that trial he would be either convicted or acquitted. If he did not surrender, the proceeding of outlawry would take place, and it had been laid down by the highest Parliamentary authorities that outlawry upon a criminal proceeding would be sufficient to disqualify any man from sitting in Parliament. By a postponement, therefore, they would avoid the charge of precipitancy, and they would avoid creating a precedent which might hereafter be converted into a dangerous political instrument. Taking all the circumstances, therefore, of the case into consideration, he thought that the better course of proceeding would be to postpone the Motion until the commencement of the next Session.

VISCOUNT PALMERSTON said, he did not intend to enter into the merits of the case, but he would put it to his right hon. and learned Friend (Mr. S. Wortley) whether the better course would not be for him to withdraw his Motion for papers, and to let the House come at once to a decision on the Motion of his hon. and learned Friend the Member for Sheffield. There was nothing in those papers that was not already known to the House, and they would not to-morrow be in any better position than they were in to-day for coming to a decision. As to the case itself, he entirely concurred with the opinions expressed by his right hon. and learned Friend the Attorney General for Ireland. They were now called upon to preserve the purity of the House; that was, no doubt, a most important application, but one of the chief elements of purity was a strict regard of the principles of justice, and an avoidance of precedents which might hereafter be converted to purposes of injustice. Assuming that there was a full conviction in the mind of every hon. Member of the guilt of James Sadleir, still he held that they ought not to take a proceeding in the nature of expulsion without being able to found it upon some formal indisputable ground, such as conviction or confession, or the Report, after due examination, of a Committee — something which, at present, they had not. He, therefore, urged the House, out of regard to its own purity and to the principles of justice, not to establish a precedent which

might on future occasions be converted into an instrument of injustice, but to postpone their decision until they were in a better position to decide.

SIR HENRY WILLOUGHBY said, there was one ground which compelled him to ask the hon. and learned Member for Sheffield not to press his Motion. A Motion was made on Monday for Mr. James Sadleir to appear in the House on Thursday. That period was very short, and Mr. Sadleir could scarcely have been present if he had felt so disposed.

MR. HENLEY said, he agreed with the noble Lord at the head of the Government, that the best way of vindicating the honour of the House was to act justly. Without expressing any opinion as to the case of James Sadleir, he thought that the worse the case seemed the more careful they ought to be not to act upon it until the person implicated had had an opportunity of being heard. He could not say that when notice to a person to appear in that House on a Thursday had only been given on a Monday, and there was no proofs of personal service, he was to be treated as absent.

MR. STUART WORTLEY said, he had no objection to withdraw his Amendment, if the hon. and learned Gentleman below him would withdraw his Motion. The hon. and learned Member for Sheffield makes no sign. Under these circumstances he could only withdraw his Amendment, on the understanding that the noble Lord would move the previous Question.

VISCOUNT PALMERSTON: I beg, Sir, to move the previous Question.

MR. ROEBUCK: Sir, I suppose there will be no further discussion on this matter. It strikes me, from the statement of the right hon. and learned Gentleman the Attorney General for Ireland, that some political considerations are mixed up with this question—[cries of "No, no!"] I understood him so, and I think it a most unhappy thing that we cannot touch anything in regard to Ireland unless political feelings are imported into the discussion. I have done the best I could to support the honour and dignity of the House, and if I find the majority against me, of course I cannot help it. Hon. Gentlemen have talked about the danger of precedent. No man, however, had pointed out what that danger is. What is this case? A man commits a crime dishonourable in itself. He is found by the Master of the Rolls guilty of a fraud of the most atrocious de-

scription; and I ask, therefore, if such a man ought not to be expelled from the House of Commons? To talk about danger, and to affect a squeamishness of this sort, appears to me to be most inconsistent with the maintenance of the honour and dignity of the House. Sir, we stand dishonoured by the association with a peccant Member. I have done what I could to free you from that association, and the blame must therefore rest with those who have prevented me.

MR. NAPIER said, that in reference to the remark of his right hon. Friend (Mr. Henley) he could state that efforts had been made to serve the Order on James Sadleir, but he could not be found.

VISCOUNT PALMERSTON said, he must repudiate in the most distinct terms, on the part of the House, the charge which had been brought against it by the hon. and learned Member for Sheffield. The arguments that had been urged in the course of the discussion did honour both to those who had used them and to those who had been influenced by them. As far as he could understand the grounds upon which the House had proceeded, they had wholly discarded any considerations as to the side of the House upon which the person sat who was the object of the inquiry; they had proceeded entirely upon abstract principles of justice.

MR. MALINS said, he thought that the worst course to be adopted was, to move the previous question; but, at the same time, he wished it to be understood that his opinion was not grounded upon any hesitation of a private kind, as to whether this was a case in which it was necessary to expel a Member from the House or not. He hoped his hon. and learned Friend (Mr. Roebuck) would renew his Motion. He did not think there could be any mode by which, except by accepting the Chiltern Hundreds, Mr. James Sadleir could now escape from the vote of that House, and the expulsion to which he ought to be subjected.

MR. NEWDEGATE said, that having observed the course of the whole proceedings during the last six months, and not believing that any evidence could be adduced to justify the person in question, he was prepared to vote with the hon. and learned Member for Sheffield. But, as it appeared to be thought by a majority of the House that it was better to wait a little, he would recommend the hon. and learned Member not to divide, since if he were in

Mr. Roebuck

a minority the effect would be that a great number would escape whom he believed to be equally guilty.

MR. STUART WORTLEY said he had no doubt the time would come when the House would interfere, but it would be better not to proceed hastily. When the time did come he did not question that the House would act with vigour and firmness.

Amendment, by leave, *withdrawn*.

Question again proposed, "That Mr. James Sadleir, having absconded from public justice, be expelled this House."

Whereupon the *Previous Question*, "That that Question be now put," was put, and *negatived*.

MR. ROEBUCK: I wish, Sir, to put a question to the noble Lord at the head of the Government. If an application is made for the Chiltern Hundreds for Mr. James Sadleir, will the Government pledge themselves not to grant it?

VISCOUNT PALMERSTON: Undoubtedly.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Order for Committee read.

House in Committee.

Clause 3.

MR. ROEBUCK said, he should now move to omit the sum of £4,500, and to substitute the sum of £3,000 (the former being the amount proposed as the retiring pension of the Bishop of Durham). He took that course upon the following grounds—He was told upon the highest authority that the Bishop of Durham was entitled by law to a salary of £8,000 a year, but, that by an ingenious arrangement made between himself and the Ecclesiastical Commissioners, he was to pay a certain sum of money, and receive all the proceeds of his estates after that amount. In that way, instead of £8,000 the Bishop had been in the receipt of some £14,000 or £16,000 a year. His proposition was to limit his retiring salary to one-third of that which it was originally intended he should have received.

Amendment proposed, in line 16, to leave out the words "four thousand five hundred" and insert the words "three thousand."

SIR HENRY WILLOUGHBY said, he could not but think that the Motion of the hon. and learned Member had some claim upon the consideration of the Committee. No one could say that £3,000 was too small a sum for a Bishop who was wholly

incapacitated for further business. He should support the Amendment, believing that the question stood upon different ground from the sum voted to the Bishop of London. In spite of what the Government said, the Bill would form a precedent for the income to be fixed hereafter in any general measure. There was nothing to justify so high a charge as this. The Bishop of Durham had had a larger income than £8,000, and the Ecclesiastical Commissioners had parted with property which did not belong to them when they gave him more than that sum.

MR. ROEBUCK said, that one reason which had been stated for giving the retiring Bishops those high salaries was, that they had establishments to maintain both in town and in the country; but it was idle to talk of voting away the money, and to suppose it was necessary for any such purpose; because, on their retiring, they would give up one at least of their establishments. By the present state of the law an active Bishop, in the full enjoyment of his faculties, got upon an average a sum of £5,000 a year, but in this instance they had already voted one Bishop who was retiring—because, according to his own statement, his infirmities had incapacitated him from performing his duties—a sum of £6,000 a year, which was actually more than they gave to a hardworking Bishop. That was an instance of the poverty of virtue. Our Bishops professed to be the successors of the Apostles; but certainly that was a curious mode of imitating their humility and poverty. He proposed that the retiring pension of one of these successors to the Apostles should be £3,000, and upon that he would divide the Committee.

MR. WILKINSON said, that the hon. and learned Member for Sheffield (Mr. Roebuck) had not put the case quite fairly when he stated that the Church must pay the Bishop of Durham £4,500 a year, or, if not, he would continue to enjoy an income of £16,000 per annum. By the arrangement proposed by the clause it was clear that there would be a gain to the common Ecclesiastical Fund.

MR. ROEBUCK said, that he did not say that the Committee was asked to vote £4,500 a year to a Bishop, but to one who had ceased to be a Bishop.

VISCOUNT PALMERSTON said, he could not allow the Committee to come to a vote upon the clause without informing it that the notion which had been suggested by the hon. and learned Gentleman, that the

Bishop of Durham had hitherto received £8,000 per annum only, was not correct.

MR. ROEBUCK said, he must explain that he had stated that the arrangement made between the Ecclesiastical Commissioners and the Bishop was—the law being that he was to receive £8,000 a year—that upon his paying a certain round sum to the Commissioners he should receive the whole revenue, and in consequence of that arrangement his income had been from £14,000 to £16,000 per annum.

VISCOUNT PALMERSTON said, that was just what he was coming to. Upon the ground of the Bishop's retiring, it was proposed to give him this salary; and it appeared to him (Lord Palmerston) that £4,500 was a sum not disproportionate to the actual receipts which had been taken by the Bishop of Durham, and which were admitted to be between £14,000 and £16,000. The result therefore was, that, after giving the Bishop this pension, and paying his successor £8,000, there would still be a surplus left at the disposal of the Ecclesiastical Commission.

LORD ROBERT CECIL said, he wished to call the attention of hon. Members to an argument which had been used, that unless the Committee yielded on his own terms the Bishop would retain his see. He (Lord R. Cecil) could not believe, after the confession of incapacity which had been made, that, whatever the vote of the Committee might be, the right rev. Prelate would retain his see in opposition to public opinion. He could not believe that they were in *misericordiam* as regarded those Bishops. The Bishop of Durham, by law, was entitled to £8,000 a year, but, by a particular arrangement, he had managed to obtain double that amount; and now he came to Parliament to ask for an allowance based upon that doubled income more than equal to the salary allowed to the working Bishops.

SIR GEORGE GREY said, he was anxious to correct a mistake into which the noble Lord had fallen, and it would be important that he should state to the Committee what the law really was. If there were any arrangement, it was not framed by any ingenious contrivance between the Bishop of Durham and the Ecclesiastical Commissioners, but its terms were imposed by an Act of Parliament, which provided that certain incomes should be assigned to certain Bishops, and, amongst the rest, that a salary of £8,000 should be assigned to the Bishop of Durham. Under that Act it was arranged that the

salaries should be estimated upon the average receipts of the diocese, taken for a period of seven years before the acceptance of the see. Whenever those receipts should be in excess, the salary was to be a charge upon those revenues; on the other hand, if the revenues of the see fell short, the deficiency was to be made up by the Ecclesiastical Commissioners. He considered that that was a very bad arrangement; and it had been admitted by the House to be so, for it had been repealed, and they passed a Bill, prescribing other terms which were better calculated to carry out the proposed object. The Bishop of Durham was, therefore, legally in possession of the income which he now received; and being in possession of that income, and spending it, as he (Sir G. Grey), living as he did in his diocese, could testify, most munificently; and having devoted large sums to the augmentation of small livings, he was now returning £2,000 a year to the Ecclesiastical Commission.

MR. CARDWELL said, that without imputing any contrivance to the Bishop, the fact remained the same. The Legislature had intended the income of the Bishop of Durham to be £8,000 per annum, while he had actually received about £16,000. In granting a retiring pension, if the amount was to be one-third of the income, the question arose in this case, was that proportion to be based upon the income which by error—of Parliament if they would, but certainly by some error—had been actually received by the Bishop, or upon the amount which it had been the intention of all parties he should receive? He was inclined to adopt the second rather than the first proposition. The noble Lord (Lord R. Cecil) had referred to some arguments, that if the terms proposed were not accepted there would be no resignation; but he (Mr. Cardwell) did not believe that if Parliament should vote a pension upon just and equitable terms, consistent with the spirit of precedent, any Prelate who had already admitted his incapacity to continue in his office would venture to refuse those terms.

MR. SPOONER said, he had supported the allowance of £6,000 to the Bishop of London upon the understanding that it was one-third part of his present income. He had been prepared to support the Amendment of the hon. and learned Member for Sheffield in the case of the Bishop of Durham, believing that the sum proposed by it was one-third part of the income to which that right rev. Prelate was

legally entitled. He found now, however, that the Bishop was entitled legally to receive £16,000 per annum, and, therefore, he thought Parliament ought to deal with him as it had done with the Bishop of London, and calculate the retiring pension upon the amount he was legally entitled to receive.

MR. MOWBRAY said, he was of opinion that the retiring pension should be calculated upon the basis of the actual receipts of the Bishop, whose habits and expenses had been formed by the actual amount of his income. With respect to the Bishop of Durham, he could fully corroborate the statement of the right hon. Baronet (Sir G. Grey) of the munificence to which that income had been applied. The Bishop had been accustomed for many years past to contribute to all local charities within his diocese, nor did he confine his gifts to those institutions connected with the Church merely, but he extended them to such objects as the hon. and learned Member for Sheffield himself would take an interest in.

MR. DUNCAN hoped that the working clergy would be dealt with upon the same principles which were applied to Bishops.

Question put, "That the words 'four thousand five hundred' stand part of the Clause."

The Committee divided:—Ayes 52; Noes 19: Majority 33.

On the Question that Clause 3 should stand part of the Bill,

MR. MOWBRAY said, there was one point to which he wished to call the attention of the right hon. Baronet the Home Secretary. As, in consequence of the change which was about to be made, a number of poor clergymen would be deprived of the assistance which they now received from the Bishop of Durham, and as the "Common Fund" would benefit considerably by the new arrangement, he thought the case of such clergymen would be deserving of the special consideration of the Ecclesiastical Commissioners in their application of the "Common Fund." He regretted that the right hon. Gentleman the Member for the University of Cambridge (Mr. Walpole) was not present to hear this suggestion.

SIR GEORGE GREY said, that the surplus would, of course, form part of the "Common Fund," but he was not aware whether the Ecclesiastical Commissioners had power specially to consider those peculiar cases. If they had such power he had no doubt they would do so; but he

Sir George Grey

could not pledge them to the adoption of any course.

MR. GLADSTONE said, the point which had just been raised gave a new aspect to the matter. The statement that £4,000 to £5,000 a year would be saved for the "Common Fund," no doubt induced many Members to support the proposed arrangement. It now appeared that a portion of that sum was to be impounded. The same question might be raised in reference to the diocese of London, seeing that the Bishop of London had, as every one knew, contributed enormously towards the support of the poorer clergy out of his episcopal income. It really appeared to him that the Bill had been introduced, if not under false pretences, at least under a sort of promise which could not be fulfilled. It would be impossible to keep up the charities of the present Bishops and to replenish the "Common Fund" at the same time.

SIR GEORGE GREY said, that he had not stated that those claims should be considered, because he was not sure that the law would allow their consideration. He had only said that if the law gave them power to do so he had no doubt that the Ecclesiastical Commissioners would take into consideration the peculiar circumstances of small benefices which had for a considerable time been augmented. The raising of the question made him sincerely glad that an Amendment moved in another place, that all the surplus under the Bill should go to an episcopal fund, had been negatived.

MR. HEADLAM said, he thought that the claims of those clergymen stood so high that, if it was possible, they should receive every consideration from the Ecclesiastical Commissioners. It was clear that if Parliament had not interfered they would have derived this addition to their miserable stipends during the life of the present Bishop. He, therefore, thought that if Parliament interfered, they ought not to do so at the expense of their incomes.

MR. RIDLEY said, he hoped those claims would not be lost sight of by the Ecclesiastical Commissioners, who had the large sum of at least £450,000 in their hands, and yet spent but little of that in the augmentation of small livings.

SIR GEORGE GREY said, the Report of the Commissioners, which was about to be produced, entered fully into the subject.

MR. CARDWELL said, that as one of the Commissioners, he hoped that nothing that had passed in the present discussion would be understood as committing them, and that the Committee would reserve their

opinion upon it until they had read the Report.

Clause *agreed to*; as also was Clause 4.

On Clause 5. Every Bishop who shall succeed to the dioceses of London and Durham respectively shall hold his See, and all the property, patronage, and rights belonging thereto subject to any provision which shall be made by the authority of Parliament within the space of three years next after the passing of the present Act, "any Law, Statute, or Canon to the contrary notwithstanding."

MR. ROEBUCK: As it stood at present the clause provided that any future appointed Bishops of the two sees mentioned in the Bill should be subject to any provision which might be made "by Parliament within three years after the passing of this Act." He would propose to strike out those words, and insert in lieu thereof, "by the authority of Parliament relating to the extent of his duty or the amount of his emoluments."

VISCOUNT PALMERSTON said, that he hoped the hon. and learned Member would not press his Amendment, as his right hon. Friend (Sir G. Grey) intended to propose a somewhat similar emendation upon the third reading. The Amendment of his right hon. Friend did not, however, propose to deal with the limitation of three years.

MR. HADFIELD said, he thought that if this provision, limiting the time to three years, were not got rid of, the clause would be valueless.

VISCOUNT PALMERSTON said, he would suggest that the advisability or non-advisability of retaining the limitation of three years would be better discussed to-morrow, when the Amendment to which he had referred was before the House.

MR. ROEBUCK said, he would remind the Committee that they would discuss the subject upon the third reading, under the disadvantage of being able to speak once only. He did not wish to obstruct the progress of business, but he thought it right to place the fact before hon. Members.

Amendment, by leave, *withdrawn*.

LORD ROBERT CECIL said, he took exception to the last phrase, as at best unmeaning, and as possibly calculated to create some difficulty in the interpretation of the clause. He did not profess to be learned in the Ecclesiastical Law, but there was upon the Treasury Bench one hon. and learned Gentleman, the Solicitor General, who ought to be proficient in the science, having devoted a whole hour to it that day, and he should be glad to be in-

formed by him what was the meaning of the word "canon" as used in the clause.

THE SOLICITOR GENERAL said, he would willingly give the noble Lord the benefit of his opinion as regarded the application of the three words "law, statute, and canon." The first was used with reference to the Common Law, the second with reference to Acts of Parliament, and the third with reference to the Ecclesiastical Law. But the whole phrase was, as every one must be aware, little else than surplusage—mere words, of course.

MR. ROEBUCK: The hon. and learned Gentleman follows the precedent of former Bills, and trudges on in a beaten track.

THE SOLICITOR GENERAL: Allow me to assure the hon. and learned Member that he is mistaken in supposing that I framed the Bill. I never saw it till it came down from the House of Lords.

MR. GLADSTONE said, that, strictly speaking, both the words excepted to by the noble Lord, and even the entire clause, he considered were unnecessary. They had no enacting power, and were only introduced to save the honour of Parliament.

LORD ROBERT CECIL said, he still objected to the words, and should move that they be omitted.

VISCOUNT PALMERSTON said, he must beg the noble Lord not to press the Motion; though the words might be unnecessary, they were justified by precedent, and, at all events, could do no harm.

LORD ROBERT CECIL said, he would consent to withdraw the Motion, but he should renew it to-morrow.

Clause *agreed to*.—On the Preamble,

SIR WILLIAM HEATHCOTE said, he must protest against the supposition that he approved of the Preamble in its present form. An Amendment would probably be proposed to-morrow.

MR. GLADSTONE said, he wished to know whether it was intended to propose any material Amendments in the Bill on the third reading? If so, notice of them should be given that evening, as there only remained four days of the Session.

THE SOLICITOR GENERAL said, that the only Amendment contemplated was the technical one of substituting the words "that he has under his hand and seal" for the words "duly and canonically, with reference to the manner in which the Archbishop of Canterbury should accept the resignation of the outgoing Bishops.

MR. GLADSTONE said, he deemed that Amendment a very important one, and would oppose it.

Lord Robert Cecil

SIR GEORGE GREY said, that his hon. and learned Friend the Solicitor General would state to-morrow the grounds upon which he rested his Amendment.

MR. ROEBUCK said, his objection to the Preamble as it stood now was that it was not a true one; and he wanted to know whether the Government were prepared to make it accord with the facts? At present it stated facts about the resignation which never occurred. The dates were made very different from the actual dates. The Bishops had offered to resign upon condition of having certain sums as retiring pensions, but that was not stated, though it ought to be, in the Preamble.

MR. GLADSTONE said, that to any Amendment which proposed to strike out the words "duly and canonically" he should, when it came to be considered, offer every opposition in his power. At the same time, deferring as he did to the sense of the Committee which had been unequivocally pronounced, he had no wish whatever to obstruct the Bill.

Preamble *agreed to*.—House resumed.

Bill *reported*, without Amendment.

' METROPOLIS LOCAL MANAGEMENT ACT AMENDMENT (No. 2) BILL

Order for consideration of Lords Amendments read.

Motion made and Question proposed, "That the said Amendments be now read."

MR. W. WILLIAMS said, he must press for the postponement of the Order, on the ground that an hon. Friend of his had a petition against the Bill, and was not able to be present to lay it before the House.

SIR BENJAMIN HALL declined to accede to the suggestion.

MR. BUTLER objected to the haste with which these Amendments were being hurried; he entertained strong objections to them, and he had reason to believe that there was a general feeling throughout the metropolis against them,—true it had not been strongly expressed, but these Amendments had only been placed in the hands of Members the previous morning, when it appeared that they were of a nature seriously to interfere with the rights of the ratepayers, to choose their own churchwardens and parochial officers—500,000 ratepayers were to be deprived of their rights, the alteration was uncalled for, and unless the right hon. Baronet would consent to postpone the consideration of these Amendments, he should move that the further consideration be postponed till to-morrow.

Amendment proposed, to leave out from the words "That the" to the end of the Question, in order to add the words "consideration of such Amendments be postponed till To-morrow."

Question proposed, "That the words proposed to be left out stand part of the Question."

SIR BENJAMIN HALL said, the only Amendment proposed by the Lords related to the appointment of parochial officers. That Amendment was contained in the first clause, and he believed that was the only point to which the hon. Member for the Tower Hamlets (Mr. Butler) referred. Under the Act of last Session the Vestries were elected an by almost universal suffrage, namely, by a rate-paying suffrage. One-third went out by rotation every year, and there was household suffrage with single voting. The Lords thought that bodies so constituted had the confidence of the ratepayers, and that they might be intrusted with the election of the parochial officers, rather than that there should be a recurrence of those exciting scenes which had occasionally taken place. In most of the parishes the vestries elected the churchwardens, overseers, and other parochial officers. In other parishes they were elected by the parishioners at large, and the object of the Lords' Amendments was to assimilate the practice.

MR. PELLATT complained that the Lords' Amendments would destroy the whole vitality of the Bill. Parishes now in the enjoyment of open vestries would not like the measure, and he should move the omission of the Lords' Amendments so far as they went to extinguish the first clause.

MR. W. WILLIAMS said, there was no right which the inhabitants of the metropolis valued more than the ancient right of electing their parochial officers. In some parishes there were 20,000 ratepayers who would have the right to vote for those parochial officers, while the largest number of members in any vestry was not more than 120. The ratepayers did not wish to delegate this right of election to the vestries. The first clause of the Bill which had been expunged by the Lords was the very part of the measure which was viewed with the greatest satisfaction by the inhabitants of the metropolis, and he certainly hoped that the House would not agree to its being expunged.

SIR WILLIAM CLAY said, there was much that was good in the Bill, which he was sorry to see rejected. After the passing of this Bill a church rate could only

be made in open vestry, which he thought a very great point. Another important object of the Bill was to dispense with the necessity of the payment of church rates to entitle a person to the enjoyment of the elective franchise. If his hon. Friend's object was to defeat the Bill by postponing the consideration of the Lords' Amendments to-morrow, he feared he must vote against him.

MR. WILKINSON said, that at a meeting of parochial officers, held a few days since, there was a general expression of opinion that sooner than lose the Bill the first clause should be struck out. As he understood that the clause inserted by the Lords could not be struck out, and the original clause inserted, he should not offer any opposition to the Bill as it stood.

MR. MURROUGH said, that a great number of the Members for the metropolis looked upon the first clause as the only valuable part of the Bill; and, notwithstanding what had fallen from the hon. Member for Lambeth (Mr. Wilkinson) who had shown less discretion in the matter than his hon. Colleague, he could assure the House, from his acquaintance with the constituency of Lambeth, that that feeling was shared by a great proportion of that constituency. The right hon. Baronet opposite would not be showing that moral courage which, from his general political conduct, might be expected from him, if he did not move that the Lords' Amendment for expunging Clause 1 be not agreed to.

Amendment, by leave, *withdrawn*.

Main Question put, and *agreed to*.

MR. BUTLER admitted the necessity for legislation, and that there were useful clauses in the Bill; but the Amendments materially affected the rights of his constituents, rights which they valued; he should therefore move that the Amendment of the Lords to expunge Clause 1, be not agreed to.

MR. MURROUGH seconded the Motion.

Motion made, and Question put, "That this House doth disagree with the Lords in the Amendment in page 1, 'Leave out Clause T.'"

The House *divided*:—Ayes 8; Noes 53: Majority 45.

Amendment *agreed to*:—Several others *agreed to*; one *agreed to*, with an Amendment.

FORMATION, &c., OF PARISHES BILL.

Order for consideration of Lords' Amendments read.

THE MARQUESS OF BLANDFORD said,

he would beg to move that the Lords' Amendments should be agreed to. At the same time he must confess that he very much regretted that the clause which permitted the application of voluntary offerings towards the endowment of the clergy had been rejected from the Bill. He felt very strongly on the subject of that clause; nevertheless, he felt it might, at that late period of the Session, endanger the passing of the Bill if he were to insist upon its reinsertion. He should, therefore, content himself with expressing his complete adhesion to the principle of the clause, and he hoped that on a future occasion the subject would be again taken up.

MR. GLADSTONE said, he was very glad to hear the observations of his noble Friend. He confessed he felt they were placed in a very unfortunate position. The clause had been inserted in the Bill with the unanimous approval of a Select Committee, and it had passed through that House without a division. However, it went up to the House of Lords at the end of the Session and it was rejected by a Majority of two Peers in a House of only forty Members. Although the majority against the clause was no larger, he quite agreed with his noble Friend, that as it was within a few days of the end of the Session, it would endanger the passing of the Bill if they were to insist on its reinsertion. At the same time, having regard to the unequivocal expression of opinion in that House in favour of the principle of the clause, he trusted that at a future time attention would be again attracted to the subject.

Amendments read, and *agreed to*.

The House adjourned at Ten o'clock.

HOUSE OF LORDS,

Friday, July 25, 1856.

MINUTES.] *Took the Oaths*.—James Baron Wensleydale, having been created Baron Wensleydale of Walton.

PUBLIC BILLS. — 1st Chancery Amendment; Chancery Registrars Office.

3rd Burial-grounds (Ireland); Lunatic Asylums (Superannuations) (Ireland); Joint-stock Banks.

THE NEW PALACE AT WESTMINSTER— DECAY OF THE STONE-WORK—THE PATENT LAWS.

LORD LYNTHURST presented a petition from Mr. John Benjamin Daines, of Argyll Street, Hanover Square, London, gentleman, the inventor of a solution for

The Marquess of Blandford

preventing the decomposition of stonework exposed to atmospheric action, praying for an inquiry into its efficacy, and if found successful, that their Lordships would accept the use of it for national purposes. The noble and learned Lord stated that some parts of the stonework of the Houses of Parliament were in a state of considerable decomposition, and that, two years ago, Sir Charles Barry permitted Mr. Daines to apply his solution to three portions of the building, covering altogether a surface of 1,400 square yards, Sir Charles having intimated to him that he could not give a certificate as to its merits until after the lapse of two years. That period had now expired, and Mr. Daines received yesterday from Sir Charles Barry a certificate stating that he was perfectly satisfied with the efficiency of the solution, and that it had not only preserved the stonework to which it had been applied, but had checked the decay in those portions where decomposition had commenced at the time of application. He therefore wished to know whether the Government would have any objection to appoint two or three of their Lordships for the purpose of investigating the subject? He also availed himself of that opportunity to ask the noble and learned Lord on the woolsack, whether it was the intention of the Government to introduce a measure with respect to the patent laws, which were now in a very unsatisfactory state?

THE LORD CHANCELLOR quite concurred with the noble and learned Lord that the state of the law of patents and inventions was anything but satisfactory. The matter underwent investigation before a Committee of their Lordships' House some few years ago, and also, he believed, before a Committee of the other House of Parliament; they recommended some material changes, and the present system had been established in conformity with the changes so suggested. He had often had the subject under his own consideration, and he felt that the law was in a very discreditable state. He would again look into the matter; but seeing that it was beset by almost insurmountable difficulties, he was not prepared to say that he would introduce a measure next Session.

THE EARL OF HARROWBY said it was hardly possible to institute an inquiry into the merits of Mr. Daines' invention by a Committee at this period of the Session.

LORD LYNTHURST said, he did not think the inquiry would occupy more than two or three hours at the outside. The

decomposition of the stonework had commenced, to a very considerable extent, over different parts of the building, and no time ought to be lost in taking some step to prevent the continuance of the evil.

INDIA.

THE MARQUESS OF CLANRICARDE moved for Returns connected with the land-tax of Bengal, Behar, Orissa, and Benares; of Indian officers employed in civil and political duties in 1847 and 1855; of the covenanted civil servants in actual employ in 1834, 1847, and 1855; of the same absent on furlough; of their total number, and their salaries. The noble Marquess said that he did not move for the Returns with the view of eliciting any expression of opinion on the subject at the present period of the Session, but in the hope that the Government of India would receive the full consideration of Parliament in the next Session. The first Return for which he had moved was, in fact, a return of the number of estates confiscated to the Government. He would not go into the question of how far those confiscations could be defended on the ground of public morality. All he asked was a return of the number confiscated, and he hoped he would not be told that the Return was too lengthy to be made. With regard to the civil service, he understood the Governor General had been obliged, in consequence of the paucity of civil servants, to call upon officers of the Indian army to perform civil and political duties. This was a fact which concerned the efficiency of the army as well as the civil service, and another question also arose—namely, whether officers of Her Majesty's army were not entitled to perform those duties as well as officers of the Indian army. The result of the present system was, that judicial functions were given to men who did not know the language of the persons whom they had to try, and that a boy from Haileybury, who was entered as an assistant, really found himself with authority to administer judicial functions. All he asked was, that the House should know how many of these officers there were. He begged also to move that the Return of the law expenditure in England of the East India Company since the year 1853, ordered to be laid before the House on the 16th June, be made forthwith. He believed it would be found that the law expenses of the East India Company in England were something monstrous, and would reveal a spirit of litigation which was not

creditable on the part of a sovereign Power towards those whose territory and revenues had become absorbed in the possessions of the Crown. He believed the number of appeals would not be nearly so great if the Courts of India were tolerably well constituted, or if a spirit of litigation and oppression did not exist which induced the civil servants of the Company to commence proceedings, and involve the Indian Government in lawsuits that few of the natives were able to resist. In many of these cases the East India Company had been signally, and, he might say, disgracefully worsted. If there was no objection, he would likewise move for copies of any Minute of the East Indian Government in 1834, specifying the terms and conditions of the allowance to be made to the deposed Rajah of Coorg. He could not understand upon what ground it was that the East India Company required this deposed Prince to spend his income in India. His stipend amounted to the paltry sum of £448 per annum, less than was paid by the Company for a dinner at the London Tavern, or for a fee to counsel for arguing an appeal. The sum was even less than the salary of the Directors, and it was impossible to arrive at any other conclusion than this, that the Company wanted this gentleman to be turned out of the country, in order that he might not be able to prosecute his legal suit against them.

THE DUKE OF ARGYLL said, that he had stated on a former occasion that the Government did not feel itself called upon to defend the course which had been taken by the East India Company. It happened with respect to the payment of pensions, that the law and constitution had entrusted the East India Company with a very large discretion, and this was a point on which the Government had no right to interfere. This prince had obtained leave for a year, and at the expiration of that period the Company had required him to return to India.

Returns ordered to be laid before the House.

JUDICIAL REFLECTIONS ON MEMBERS OF THE HOUSE—JUDGMENT *IN RE* DYCE SOMBRE—QUESTION.

EARL ST. VINCENT rose to put to the Lord Privy Seal the Question of which he had given notice:—Whether, inasmuch as the Judgments of the highest Legal Tribunals are Matters of Public Record, and may be referred to as Facts in the Knowledge of Government, and con-

sidering the severe Censures that have been passed in Three successive Judgments, pronounced by the late Lord Chancellor Cottenham, by Sir John Dodson, Judge of the Prerogative Court of Canterbury, and by the Judicial Committee of Privy Council, upon the Conduct of a Noble Member of this House holding the Situation of Constable of the Tower of London, and also a distinguished Office near Her Majesty's Person, Her Majesty's Government have thought proper, for the due Preservation of the high Character of this House, to take any Steps in reference thereto? or if they intend so to do? The noble Earl requested that their Lordships, in indulgence to his infirmities, would permit the clerk at the table to read extracts from the judgments referred to, which was accordingly done.

THE MARQUESS OF LANSDOWNE said, that Her Majesty's Government was not prepared to institute any proceedings in this matter. He must deprecate the discussion of circumstances which had occurred in a civil suit—circumstances which related to a noble Lord who had been no party to that suit—and who had had no opportunity of being heard in his defence. At the same time, whilst Her Majesty's Government was not prepared to institute any such proceedings, it must be understood that it expressed no opinion as to the opinions stated in these judgments, or the opinions which successive Judges had pronounced as to the conduct of this noble Lord. If it were necessary to institute any proceeding, it ought to be one to enable the noble Lord to come forward in his own defence and state his whole case. He had had no such opportunity; and, under these circumstances, the Government was not prepared to take that course which the noble Earl opposite seemed to think they should. He (the Marquess of Lansdowne) appreciated the motives which induced the noble Earl to bring the subject forward—that warm affection which he must bear to his nearest and dearest relative—a most distinguished and accomplished lady; but, believing that no good could result from any proceeding, he trusted that the matter would be suffered to drop.

EARL ST. VINCENT said, that the noble Marquess was under an erroneous impression in thinking that Lord Combermere had had no opportunity of being heard in his defence, for that he (Earl St. Vincent) had given to Lord Combermere early notice of what he intended doing,

Earl St. Vincent.

and had subsequently forwarded to him a copy of the question when he had determined upon that course. He would give every consideration to the suggestion of the noble Marquess that this matter should be suffered to drop; but, as a matter of precaution, he would notice that on an early day on the ensuing Session he would move that copies of these judgments be laid on the table with a view to further proceedings, feeling a strong conviction that these public judicial censures for a contempt of Court ought not to pass unnoticed.

House adjourned till To-morrow.

HOUSE OF COMMONS,

Friday, July 25, 1856.

MINUTES.] NEW MEMBER SWORN.—For Frome, Hon. William George Boyle.

NEW WRITS.—For Kerry County, *v.* Viscount Castlerosse, Comptroller of the Household; for Nottingham Borough, *v.* The Right Hon. Edward Strutt, Steward of Hempholme.

PUBLIC BILLS.—1^o Aberdeen Colleges.

3^o Bishops of London and Durham Retirement: Evidence in Foreign Suits; Sheep, &c. Contagious Diseases Prevention; Hay and Straw Trade; Stoke Poges Hospital.

PENSIONS—QUESTION.

MR. BOWYER asked the hon. Gentleman the Secretary of the Treasury by what Act of Parliament, or other authority, or upon what ground, two pensions to Caroline Cort and Catherine Liddon, for £25 each per annum, had been reduced to £19 each per annum, being 25 per cent, or £315 sterling, during the last 25 years?

MR. WILSON replied that these pensions were originally granted at £25 6s. per annum, but they were subject to charges amounting to £6 6s. In the 2nd and 3rd year of the reign of William IV. it was enacted that in future pensions should be paid net; and when these pensions were renewed, at the commencement of the reign of Her present Majesty, they were granted at their net amount.

MR. ROEBUCK asked whether the original sums had been debited against the Civil List since these pensions were reduced?

MR. WILSON could not answer that question.

MR. BOWYER asked the right hon. Gentleman the Chancellor of the Exchequer whether he did not consider that when the Legislature provided that small pensions were to be paid without deductions it intended this to be for the benefit

of the poor pensioners, and not to lead to a saving of the public funds?

THE CHANCELLOR OF THE EXCHEQUER said, that the hon. Gentleman was as capable of forming an opinion of the intention of the Legislature as he was. All the Government had to look to was the warrant by which the pensions were granted.

MR. ROEBUCK wished to know whether the State was debited with the full amount of these pensions. He wanted to find out whether anybody pocketed the difference.

MR. WILSON replied that a considerable portion of this deduction went into the annual revenue of the country; some went as fees to the Exchequer officers. The civil list was debited with the exact amount paid, and no more.

MR. ROEBUCK asked what the fees were?

MR. WILSON promised to make a return of these fees if the hon. Member would move for it.

MR. ROEBUCK said, he would move for the return on Monday next.

THE ARMY—QUESTION.

COLONEL NORTH asked the President of the Board of Control whether all appointments in India for which the officers of the Indian army were eligible would be thrown open to those of Her Majesty's army?

MR. V. SMITH replied that many of the appointments in question had already been opened to officers of the Queen's army, and other relaxations in the same direction were contemplated; but there were certain appointments which, owing to the character of the duties annexed to them, could not be filled with efficiency by other officers than those of the Indian army.

THE MAIL SERVICE—QUESTION.

MR. H. G. LANGTON asked the Secretary to the Treasury whether it was intended, previously to their entering upon the service, to test the speed of the steam-vessels proposed to be employed under a recent contract in the conveyance of the Australian mails, seeing that, by the copies of the tenders now before the House, the time occupied by the voyage from Suez to Melbourne would require a speed of eleven or eleven and a-half knots an hour, whereas the vessels tendered for the performance of the duty were set down at a speed of nine and three-quarter knots per hour only?

MR. WILSON said, that the vessels

would be surveyed on behalf of the Government by an officer of the Admiralty, but it was not intended to make any preliminary test of their speed, the principle on which the contracts were framed being, that the parties who took them bound themselves under heavy penalties, which were invariably enforced, to perform the service within a stated period. The whole responsibility, therefore, rested on the contractors. The vessels had been already in the service of the Government, and were favourably reported on by the departments which had employed them.

MR. H. G. LANGTON inquired whether, in order to insure the regular performance of the contract for conveying the mails between Suez and Australia, any clause would be introduced by which the contract would be forfeited in the event of the service not being performed within the maximum number of days tendered for—namely, thirty-nine days outwards, and thirty-five days homeward?

MR. WILSON replied that, in the event of the service not being performed within the stipulated period, the parties would be liable to the heavy penalties to which he had already alluded. Moreover, there was in this contract a clause enabling Government to put an end to the engagement at any time if they should be dissatisfied with the manner in which the service was carried on.

THE PATENTS OF SECRETARIES OF STATE—QUESTION.

In reply to Mr. MURROUGH,

THE CHANCELLOR OF THE EXCHEQUER observed that the law officers of the Crown had given an opinion to the effect that it was desirable that the usage heretofore followed with respect to the obligation of Secretaries of State to take out patents for their office should be maintained, and as long as the law remained unchanged that practice would be adhered to.

MR. MURROUGH inquired whether, that being the case, it was to be understood that such Secretaries of State as had neglected to pay for their patents would do so now?

THE CHANCELLOR OF THE EXCHEQUER: Assuredly. All the Secretaries of State now in office will take out their patents.

THE REPORT OF THE CHELSEA COMMISSIONERS—QUESTION.

MR. LAYARD: I am anxious to put to the noble Lord at the head of the Go-

vernment a question of some importance, and I venture to hope that the House will kindly permit me to preface it with a few explanatory observations. It will be in the recollection of hon. Members that about a year ago my hon. and learned Friend the Member for Sheffield (Mr. Roebuck) moved for the appointment of a Committee, popularly known as "the Crimean Committee." The noble Lord the First Minister of the Crown endeavoured to prevail upon the House not to grant that Committee, and, to make his appeal the more persuasive, he undertook that he would himself institute an investigation into the disasters which befell our army, see that justice was done to the country and to our soldiers who perished before Sebastopol, and, in a word, be our leader. By way of redeeming this promise two very eminent officers were sent out to the Crimea, where they prosecuted their inquiry with great zeal and energy. They had at hand all requisite means for carrying on the investigation; they took copious evidence, and on returning to this country prepared a Report, which was laid upon the table of this House. In consequence of the statements contained in that Report I gave notice of my intention to bring forward a Motion expressive of the deep regret of this House that honours, rewards, and promotion should have been bestowed on the inculpatated officers. Thereupon the noble Lord expressed his willingness to advise Her Majesty to appoint a military commission to inquire into the Report of the Crimean Commissioners. This offer having been made I withdrew my notice of Motion, and refrained from taking any further steps in the matter, for my only object was that full and complete justice should be done to all parties. That Committee has sat, and its Report has been laid on the table of the House. I shall forbear from saying anything as to the feelings with which the country has received the Report that has emanated from that military commission. The document has been laid upon the table at a period of the Session which precludes the possibility of its receiving from this House that deliberate consideration which the importance of the subject merits. But I find that, speaking of the inquiry which they were commanded to institute, the Commissioners used these words :—

"It appears to us to be attended with unusual difficulties, inasmuch as some of the statements which were to be inquired into were founded in

Mr. Layard

part on evidence which we had not the means of investigating, and the attendance of several witnesses which it would have been desirable to examine could not be obtained."

After clearing from all shadow of imputation the officers whom the Crimean Commission had inculpatated, and declaring that they were quite guiltless, the Commissioners concluded their Report as follows :—

"We beg leave further humbly to submit to your Majesty that there does not appear to us any ground for further proceedings thereon."

The House is aware of the persecution to which Colonel Tulloch was subjected.

GENERAL PEEL: I rise to order.

MR. LAYARD: Upon that point I will not longer dwell; but it is at least certain that Colonel Tulloch had no opportunity of defending himself, not having been present when the inculpatated officers were under examination. Now, the question I should like to ask of the noble Lord is, whether he is himself satisfied with this Report—whether he thinks that it does justice to this House and to the country—and, above all, to the memory of those gallant men who suffered and died for us in the Crimea and at Scutari—and, finally, whether he is willing to endorse what I cannot but regard as the somewhat uncalled-for opinion of the Commissioners that there are no grounds for further proceedings in this matter?

VISCOUNT PALMERSTON: The questions of the hon. Gentleman appear to me somewhat unusual, for he requires not a statement of facts, but an expression of opinion. I must object to one portion of the hon. Gentleman's observations—that in which he stated or implied that the Board of General officers which sat at Chelsea was appointed to inquire into and report on the proceedings of the Crimean Commission. This is not an accurate statement of the case. The purpose for which the Board of General Officers, which sat at Chelsea, was appointed, was to receive explanations from certain officers who felt that their conduct had been brought into question by certain passages in the Report of the Crimean Commissioners. It was to afford to those officers an opportunity of exculpation, and not to re-investigate the Report of the latter Commissioners, that the Chelsea Commission was instituted. The hon. Member says that he has read their Report, but allow me to inquire whether he has read the evidence on which that Report is based?

MR. LAYARD: I have.

LORD PALMERSTON: In that case the hon. Gentleman is qualified to pronounce an opinion on the question; but I do not believe that the majority of this House has enjoyed the same advantage. In conclusion, I have only to observe that it is not the intention of Her Majesty's Government to found any further proceedings on the Report of the Chelsea Commissioners.

BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Bill read 3^o.

MR. HADFIELD condemned the clause in the Bill which restricted the time within which it should be competent for the Government to effect a readjustment of the diocese, revenues, and patronage of the see of London, to a period of three years.

SIR G. GREY explained, and defended the provision thus impugned.

MR. ROEBUCK said, that supposing the dowager Bishop—if he might so term him—died, and a Bill dealing with the diocese of London were introduced, and it shared the fate of so many of the noble Lord's measures—namely, was massacred among the other innocents—at the end of three years the Legislature would find this enactment an obstacle to any contemplated improvement. The power of Parliament was theoretically unlimited, so much so that *De Lolme* had remarked that it could do anything but convert a female child into a male one. Practically, however, the case was very different, and the objection that they were flying in the face of an Act of Parliament could always be used with effect.

VISCOUNT PALMERSTON observed, that, if a Bishop had held his see for a series of years, it was natural that he should think it hard on him to make an arrangement considerably curtailing his patronage and emoluments, and extensively changing his position. This clause, however, had been inserted perhaps from over caution. It was scarcely necessary, inasmuch as whoever succeeded to the see would receive his appointment on the understanding that he would be subject to any change, within reasonable limits, which Parliament might make. It was too late then to alter the clause; but supposing a Bill to be brought in, and to fail in being carried until the three years had expired, the Bishop would of course have received previous notice of the new arrangement that had

been contemplated; and in any subsequent attempt at legislation this circumstance would, doubtless, be fairly considered.

MR. KINNAIRD suggested that the clause should be amended in the other House.

On the Motion of **MR. HENLEY**, the following was inserted in lieu of the original preamble:—

“Whereas it is expedient to make provision for certain annual sums to be paid in case of the resignation of the Right Hon. and Right Rev. Charles James Lord Bishop of London, and the Right Rev. Edward, Lord Bishop of Durham, respectively.”

Bill *passed*, with the Amendment.

MR. ROEBUCK said, that he had a remark to make on the question as to affixing the title to the Bill.

MR. SPEAKER said, that this was a Lords' Bill, the title to which was never affixed by the Commons.

MR. ROEBUCK: In that case, he would speak on the question that the Clerk take the Bill to the other House. He had a right to complain of the conduct of the noble Lord (Viscount Palmerston) towards him. The noble Lord doubtless did not intend anything disrespectful to him, but the fact was nevertheless the same. When he (Mr. Roebuck) yesterday proposed an alteration in Committee, the noble Lord stated that he fully agreed with him, and promised that the alteration should be made on the third reading. But the Bill had now been read a third time and that promise was not fulfilled.

PUBLIC BUSINESS—REVIEW OF THE SESSION.

MR. DISRAELI rose, pursuant to notice, to move for a “return of the number of Public Bills, and their titles, the orders for which, in any of their stages, had been discharged during the present Session, and the date of the discharge of each of such orders;” and said:—Sir, I have thought it expedient, before we disperse, to ask the House to consider the course of public business during the present Session of Parliament—I take this step, Sir, with no intention of preferring a Bill of indictment against those who are mainly responsible for the management of public affairs in this House. I do not hold the opinion that the last day of the Session affords either the most convenient or the fairest occasion for the prosecution of a party attack; and I should not now make the Motion which I am about to place in

your hands, Sir, were I not convinced that there are great evils and even great dangers connected with our present position; and did I not believe that in the course of this discussion some suggestions may, perhaps, be thrown out which may, during the recess, exercise an influence upon the public mind, and lead to the application—when we meet again—of some remedy for the grievances to which I am about to advert. Sir, the course which I am now taking is not unprecedented, but it is far from being a usual weapon in party warfare. Indeed, on looking for precedents, I am not aware that there is more than one instance to which I can call the attention of the House, in the way of authority; and it scarcely becomes me to refer to that instance, because the precedent was furnished by myself. In the year 1848 I felt it my duty to ask the House to consider the course of business during the Session which was then about to close. I think, Sir, that reference will acquit me, or anybody else, of indulging in the dangerous habit of taking advantage of occasions of this description to disturb the serenity which should attend the last hours of our companionship—or of having seized such opportunities to express opinions adverse to Ministers—a course which I should prefer taking during the progress of the Session, when, if defeated in argument unfairly, one might recur to the subject, and when the Government would be afforded no excuse for saying that at the termination of their labours they had been called upon unexpectedly to vindicate proceedings which a single opportunity did not permit them completely to defend. In the year 1848 I made a Motion similar to that which now lies upon the table, and I think I may be acquitted of having been upon that occasion actuated by any party feeling, inasmuch as the Gentlemen who then sat upon the Ministerial benches had but recently attained their seats there, and had obtained them mainly by the efforts of myself and my friends. It was, then, neither with the object of disturbing those Gentlemen in the occupation of those benches, or of damaging their reputation with the country, that in the year 1848 I felt called upon, owing to the exigency of the subject, to ask the House of Commons fairly to consider what had been accomplished during the progress of the Session which was then just about to terminate. That

Mr. Disraeli

Session of 1848 was of a duration, I believe, unparalleled in the annals of Parliament. The House of Commons had sat for ten consecutive months, and when those ten months were concluded, it is not to be denied that the account of our labours proved them to have been of a very fruitless character. Great dissatisfaction and great discontent, as a consequence, prevailed throughout the country. Many reasons were assigned and many causes alleged in explanation of the fact that so prolonged a sitting had been productive of results so unsatisfactory and so slight. It was said then—and this was a very favourite mode of accounting for the mortifying fact—that it was to be attributed to the forms of the House, which, it was contended, were not suited to the age in which we lived or to the proper discharge of the multifarious transactions with which we had to cope. Again, it was said that another cause which produced these unsatisfactory results was, the too protracted discussions which took place in this House; it was said, that there existed too great a desire upon the part of Members of the House to give expression to their sentiments, and that they exhibited too much eagerness to debate the questions which were submitted to our consideration. Now, it appears to me that both those allegations have at all times a very dangerous tendency; but I think that tendency was especially dangerous in the year 1848, because the Parliament of that day was a young Parliament. There were then, I believe, 280 new Members in the House, and nothing, in my opinion, is more to be deprecated than that Gentlemen who have but recently entered within these walls, and who consequently cannot have any great experience as to the mode in which our proceedings are conducted, should be led to suppose that any standing order or form of the House presented an obstacle to the satisfactory prosecution of the business of the nation. Those who are better acquainted with the proceedings of the House know that its forms have been adopted after deep consideration and mature experience, and that the first of the allegations to which I have just adverted has little or no foundation. The second allegation is, that hon. Members are too prone to discuss the questions which come before them; and that is a charge which ought to be regarded with no small degree of suspicion. I say this because what, after all, is the House of Commons

if it be not a House of discussion? It is a House of Parliament. Its very name denotes its character. It is a House of free and ample speech, and whatever question may arise as to the policy of our legislation, however little our wisdom may be thought of, or the labours of our Committees appreciated, I have ever held the opinion, and that opinion I still continue to maintain, that the main claim which we possess upon the confidence, and, as I hope, upon the affections of the people of this great empire is, that there prevails in the country a general and well-founded conviction that there exists in England at least one place in which, in the long run, truth will be always elicited. Well, Sir, so anxious, and so naturally anxious, were the Government in the year 1848 to avail themselves of any plausible excuse to divert from themselves the rising odium which attended the results of our Parliamentary labours, that the Prime Minister of the day actually proposed and nominated a Committee to inquire into the subject of the forms of the House, to ascertain whether those forms in reality constituted an obstacle to the efficient discharge of the public business; and, if so, how they might be modified in order to facilitate its transaction. The noble Lord the Member for London, who was at the time Prime Minister, was a Member of that Committee; among its other Members were the late Sir Robert Peel, the late Mr. Goulburn, and, if I recollect rightly, the right hon. Gentleman the Member for Carlisle (Sir James Graham), and Mr. Cobden. I also was a Member of that Committee, and, if I mistake not, we enjoyed the advantage of the experience and judgment—most valuable in such matters—of the hon. Member for Malton (Mr. E. Denison). We considered the subject with great attention. We examined a member of the American House of Assembly to the rules which were applied to the transaction of public business in the United States. We also examined an illustrious exile who was then residing in this country—who had been Prime Minister of France, and who was a great master of debate—I mean M. Guizot—as to his experience upon the subject of our inquiry; and the result of our deliberations is now among the records of the House. I did not want the information which, as a Member of that Committee, I obtained, to convince me that neither to the

forms of the House, nor the freedom of discussion which we enjoy, was the unsatisfactory nature of the progress of the public business during the Session of 1848 to be attributed. It was with such feelings, Sir, and at the desire of many of my friends, that I undertook the laborious task of reviewing a Session which had lasted for ten months; of endeavouring to prove—that neither of the causes alleged had the slightest influence upon the course of public business in Parliament during that Session, and of vindicating—I trust completely—the character of the House of Commons, in reference to the accusations which had been made.

It is with the same objects, and actuated by similar feelings, that I have brought forward this Motion this evening. I do not think it is a Motion that ought to be made, except under circumstances of urgency. It is, in my opinion, of importance that we should discover what the cause is of that general discontent and dissatisfaction with the labours of this House, which could scarcely have been anticipated, but which I think everybody must acknowledge have, within the last six weeks or two months, arisen in the public mind. I do not by any means admit that it ought to be regarded as a matter of course that the Minister of this country should be prone to legislation. I, upon the contrary, maintain that the Minister is the last person in this House who should take an active interference in matters of that kind, upon all occasions. As a general rule, I think it as well that the Minister should not deal with any subject which may require legislation, unless he feels convinced that he can proceed in a manner which will be at once satisfactory and conclusive. I should say that when there arise questions that greatly interest the public mind, although a restless and even in a certain degree a rational feeling may demand legislation with respect to those questions, and although even it is possible that they may be ripe for solution, yet I contend that they may, in many instances with advantage, be left to independent Members of the House for the purpose of initiating preliminary discussion in their case—discussion which, by imparting knowledge and ultimately eliciting truth, may leave those questions in a position to be dealt with ultimately in a satisfactory manner by the Government. Therefore, Sir, I should never think of casting it as an imputation upon any Minister

that he was somewhat reserved in matters of legislation, and that he was not prepared to ask the House to sanction measures in connection with great topics, unless he felt convinced that there were urgent reasons for their introduction. I can, moreover, conceive a state of affairs in which a Minister, anxious to do his duty to his Sovereign and to his country, might yet deem it necessary, upon the assembling of this House, to call upon it simply to fulfil the high functions of granting supplies to Her Majesty, and of voting the sums required for the service of the State, to the exclusion of all questions of legislation. The country, for example, might be involved in a great struggle, and I can understand that a Minister might then, notwithstanding that there were matters of internal interest that called for the speedy consideration of Parliament with a view to their settlement, be of opinion that the crisis was of such a nature as to require all the energies of the Government to meet it, and such as to justify the Minister in calculating with confidence upon the temper and forbearance of the public and of Parliament, and not to bring forward those measures. I can also conceive that there may be another situation in which the Minister may be placed, which would call for the exhibition of that temper and that forbearance. We may not be positively at war, but we might be upon the point of concluding a peace by which a great struggle was about to be terminated; and the Minister may then say, "all my energy and all my vigilance are required to carry on the important negotiations which are to close this contest, and to lay the foundation of a settlement that may secure an enduring peace to Europe." In these circumstances I can easily conceive that a Minister might be justified in not appealing to Parliament to pass measures relating to internal affairs, however important, and might simply content himself with asking the House of Commons to vote the supplies necessary for the public service. But of these three pleas, or of any one of them, the noble Viscount opposite cannot avail himself to-night, should he think it right to answer the fair, and I trust not unbecoming criticism, which it is not my main object in rising this evening to make, upon his conduct of the public business during the present Session, but which the nature of my Motion must casually and incidentally elicit. The noble Viscount cannot, in the first place, plead in his own

Mr. Disraeli

defence to-night, that it is his opinion that we have legislated enough, and that there are no questions of great importance pressing for the consideration of the Legislature. The noble Lord cannot take that course, inasmuch as he has voluntarily, during the present Session, introduced to our notice, not only questions of great importance, but—as I think I shall be able to show the House—a greater number of questions of great importance than probably was ever introduced by any Minister into Parliament. Nor can the noble Lord avail himself of the second plea to which I have adverted, namely, that this country being involved in war—in a formidable struggle—this House or the public could not fairly expect that important legislative proposals should be made. The noble Lord is not entitled to set up that defence, because at the commencement of the Session he advised Her Majesty, while thanking her faithful Commons for the devoted manner in which they had supported her in the late struggle with Russia, to recommend them to give their most attentive consideration to many subjects of great importance in connection with the internal affairs of the nation. The noble Lord, I may add, cannot avail himself of the third plea—that, although the state of war had terminated, the negotiations for peace were of a nature to demand all his energy and vigilance, to the exclusion of the ability to direct his attention to the preparation of great measures of legislation—because, besides those subjects to which the noble Lord advised Her Majesty in Her most gracious Speech to direct our attention, and since the negotiations for peace commenced, the noble Lord has introduced measures upon other subjects, and those of no secondary importance, to which he solicited the consideration of Parliament. I therefore think we need not argue to-night the question whether legislation is or is not necessary in the present circumstances of the country, because Ministers themselves are the principal witnesses to the fact that legislation, and that upon a vast scale, is required.

Now, Sir, in making these observations, I wish to guard myself against the use of any language which could be fairly said to savour, even in the slightest degree, of exaggeration. I have stated that the noble Lord at the head of the Government has, in the course of the present Session of Parliament, introduced to our notice measures of great importance, and a greater number of measures of great importance.

than were ever submitted to Parliament by any Minister who occupied those benches. That assertion I think I shall be able to substantiate. Without mentioning many measures, the magnitude of which, when I refer to them in detail, will speak for itself, but which are of a secondary interest when compared with the principal features of the legislative scheme of this Session, I may be permitted to remind the House of some of the chief subjects which have been laid before us for consideration. We have, in the first place, been asked to create a court of appeal—a high court of appeal; the highest court of appeal in the last resort. Every hon. Member will, I am sure, concur with me in the opinion that that is a subject which may be described as the greatest of legal questions. It may be justly so described in all countries; but in our country it is more than the greatest of legal questions, because it is also the greatest of constitutional questions; because, in considering the creation and construction of a high court of appeal we, from the nature of our institutions, have not only to fulfil that prime object itself, but incidentally to consider the very elements of a senate, or rather of an upper chamber. We have also this year been called upon to deliberate upon a new law of partnership, founded upon new principles—principles better adapted, than those upon which the present law is based, to the exigencies of this advanced age—principles which would facilitate the application of capital to commerce in the most commercial country in the world. We have been asked to take into our consideration the whole law of divorce, and extremely important changes in the law of marriage. We have been called upon to review the whole discipline of the Church—the testamentary jurisdiction of the country—the police of the country—the reform of the most ancient, the most wealthy, and the most powerful of our municipalities, an institution intimately connected with the history and the liberties of England—the superannuation of the whole of the civil service of the country—the criminal appropriation of trust property—the education of the entire kingdom—the retirement of Bishops from their sees—and last, and not least, the accurate means of ascertaining the most important produce of the empire by means of a system of agricultural statistics. Well, Sir, these are no light questions. These are questions not only

among the most grave that concern a State, but they involve the very principles upon which society itself depends. Sir, I do not know that I can place the legislative scheme of the Minister more fairly before the House than by referring to the Speech from the Throne at the commencement of the Session, and calling the attention of hon. Members to those propositions which, subsequently, were submitted, upon the authority and with the sanction of the Government, to the consideration of Parliament. There were four subjects—I should rather say four groups of subjects—which, in the heat of war, Her Majesty was advised by the Minister to recommend to the attentive investigation of Parliament. The first, which was the simplest, embraced the assimilation of the mercantile law of Scotland and of England. The second was that improvement in the law of partnership, founded altogether upon new principles, and aiming at the increased application of capital to commerce, to which I have before adverted. The third was a measure which was to relieve the mercantile marine of this mercantile country from charges of great weight under which it had long laboured, and against which loud complaints had been raised. And the fourth series of measures, and the most important, dealt with a large and extensive reform in the laws of Great Britain in the first place, and, in the second place, in those of Ireland. Now, Sir, such was the nature of the legislative scheme which at the commencement of the Session, and in a time of war, was recommended, in the language of the gracious Speech from the Throne to “the attentive consideration” of Parliament. And now, let me ask, have we disposed of the four series of measures to which I have just alluded? With respect to the first question—the assimilation of the mercantile law of England and Scotland—I am ready to admit that the Government may be considered as having fairly redeemed the pledge which they gave in its regard. A Bill to effect a change in the mercantile law of Scotland has now, I believe, passed through both Houses of Parliament. A measure seeking to change the mercantile law of England was also laid before us. It involved, indeed, a principle of the most dangerous character—a principle which aimed at doing away with the necessity in mercantile transactions of written contracts. The practical sagacity, however, of this House protested against that principle, and, with the aid of the

whole commercial body, saved the nation from the dangers which would be consequent upon the operation of a proposition so unfortunate. The obnoxious principle was struck out of the Bill, and in that shape the Bill was passed into law. We may, therefore, I think, admit that the Government have, upon the whole, fairly redeemed the pledges which they gave us with respect to the first series of measures which were noticed in the Royal Speech. Now, Sir, did we proceed with regard to those improvements in the law of partnership which we were led to expect—to that measure which was to be founded upon a new principle; which was to be adapted to our advanced and enlightened age; and which in this peculiarly commercial country was to facilitate the application of capital to commerce? Now, I am bound to say that the Government exhibited every evidence of sincerity with respect to this second class of measures, for upon the very first day upon which we met—the 1st of February—the important Bill to which I allude was introduced by the right hon. Gentleman the Vice President of the Board of Trade. After discussion—after being amended and reprinted on the 25th February—upon the 10th of March that measure was abandoned. Her Majesty's Government, however, determined to deal with a subject which they felt to be of paramount importance, lost no time in profiting by the discussion which had taken place, and accordingly, upon the 7th of April, a second Bill to amend the law of partnership, and to accomplish the great objects for whose attainment its predecessor had been framed, was introduced into the House of Commons by the same right hon. Gentleman. It was introduced on the 7th of April. Upon the 14th of July it was abandoned. Now, as my object is not to prefer a Bill of indictment against the Minister—my aim being a higher one, as I trust I shall be able to substantiate—I must call the attention of the House to this fact. Here we have an important subject recommended to our attentive consideration in the Speech from the Throne. We have a Bill brought in with regard to it by Her Majesty's Ministers and abandoned. But that is not all. A second measure is introduced, and that also is abandoned. Now that is a very remarkable, and, I cannot help thinking, a very unfortunate catastrophe for the Minister of any public department to experience; but what I would

Mr. Disraeli

now take the liberty of observing to the House is, that such a catastrophe is not peculiar to the Vice President of the Board of Trade, hitherto thought to be so peculiarly unfortunate in his legislative enterprises. I find that the President of the Poor Law Board was not much more successful. Upon the 3rd of April that functionary introduced to our notice a Bill for the amendment of the poor law. Upon the 23rd of May that measure was abandoned. I find the Minister—profiting equally with his right hon. Colleague by experience—re-introducing this Bill, or rather introducing a new measure upon the subject of the poor law, on the 23rd of May. On the 10th of July I find that measure also was abandoned. Here, then, we have two Ministers introducing Bills upon subjects of the highest importance, and not only failing in their efforts to carry them, but recurring to the experiment and again encountering failure. But, Sir, this species of double failure is not peculiar either to the Vice President of the Board of Trade or to his right hon. Colleague at the head of the Poor Law Board. The Irish Government, represented in this House by the Chief Secretary to the Lord Lieutenant, upon the 15th of April introduced a Bill for the better regulation of lunatic asylums in Ireland. Upon the 21st of May that measure was abandoned. The right hon. Gentleman, however, did not lose heart, and accordingly he, two days afterwards, brought in another Bill dealing with the same subject as his former measure. He brought it in on the 23rd of May, and upon the 14th of July it was abandoned. Thus, upon three subjects—and I have mentioned the last two cases incidentally to illustrate and in some degree to soften the position of the Vice President of the Board of Trade—upon three subjects of moment we find three Ministers trying their hands at legislation and failing in their efforts; not despairing in consequence of one failure, but making a second attempt, once more to be unsuccessful. Thus much, then, Sir, for the law of partnership. Let me now direct the attention of the House to the third group of measures referred to in the gracious Speech from the Throne—namely, those measures which were to relieve the whole mercantile marine of England from those local dues and passing tolls so long matters of grievance to that body. Here, Sir, I am afraid I shall not find any of the cat-

leagues of the Vice President of the Board of Trade to be his equals in mischance. I find, upon the 4th of February, the right hon. Gentleman the Vice President of the Board of Trade, I am sorry to say, bringing in a Bill to carry out the objects alluded to in the Royal Speech with reference to the subject I have just mentioned. Upon the 26th of February that measure was abandoned. I come now to the fourth series of measures referred to in the Royal Speech. There are, first, the measures for the improvement of the law in Great Britain. It appears, as far as I can ascertain, that five measures were brought forward by Her Majesty's Government with that praiseworthy object, and I think, when I state their titles, hon. Gentlemen on both sides of the House will agree with me that no Ministry ever yet brought forward a series of measures on subjects of such deep interest and extensive application. First, there was a Bill to establish a new jurisdiction in matters of wills and administrations throughout the country. That Bill was introduced on the 14th of March; and on the 10th of July it was abandoned. The next Bill was that great measure to found an appellate jurisdiction in the last resort. It was brought from the Lords on the 9th of June; and on the 10th of July it was abandoned. The third measure related to a subject of no less importance than that of divorce. It was brought into this House on the 4th of July; and just let me remind the House of the circumstances under which it came down to us. It had passed with great difficulty through the House of Lords, where it had been subjected to the criticism of some of the greatest intellects of the country. It dealt, I believe successfully, with most of the points which are the opprobrium of our law of marriage, and it laid the foundation of a satisfactory adjustment of those points which it did not profess to settle. That Bill was introduced into this House on the 4th of July; and on the 17th of July it was abandoned. The next measure of this character—a measure of legal reform—dealt with a subject on which the present state of our law, I do not hesitate to say, is a disgrace to that enlightened and civilised society to which it is our pride to belong; it was a measure which dealt with the criminal appropriation of trust property. I can conceive no subject more deserving of the attention of a Government. I should say that the nation itself ought never to rest satisfied

until the state of the law upon that subject is amended. The most iniquitous consequences have, for a long series of years, resulted from the state of our law upon that subject. I am bound to say—I speak upon the matter on the highest information, and I would not otherwise presume to make the statement—I am bound to say that what is taking place in this country every day renders it still more necessary that a Bill of that kind should be passed. I have not the date when that Bill was introduced into this House; but I have the fatal day before me—the 21st of July when it was abandoned. The fifth measure, which was the Church Discipline Bill, was not abandoned. It was introduced into the other House of Parliament, and there it was rejected on a division. So that none of those five great projects of law, upon subjects which no one can, for a moment, hesitate to admit demand the “attentive consideration” of Parliament—to use Her Majesty's gracious words—and were subjects of urgent necessity, if any subjects for legislation can deserve that name—none of these five great projects have received the sanction of Parliament during the present Session. Now, let us look to the measures proposed, with a view to the reform of the law in Ireland, and let us see whether we have been more fortunate in that respect. Soon after Parliament met, a Bill was introduced by the Government for the reform and reconstruction of the Court of Chancery in Ireland. That measure proposed to create two Vice Chancellors, who were to be appointed by the Lord Lieutenant, at salaries of £3,500 a year each. It proposed to create six chief clerks at salaries of £1,000 a year each, and six junior clerks at salaries of £350 a year each. It proposed to abolish the offices of Masters and Examiners of the Court, and to allow the present functionaries to retire on full salaries—that is to say, the four Masters on salaries of £3,000 a year each, and the other functionaries with corresponding allowances, which I need not mention to the House. This Bill was followed immediately by another, having relation to the Courts of Bankruptcy and Insolvency in Ireland, and which was introduced on the 29th of February. It was proposed by that second Bill to constitute two Judges, with salaries of £2,000 a year each; a chief registrar, with a salary of £600 a year; a chief clerk with a salary of £500 a year; and two assistant registrars with

salaries of £400 a year each ; and it conferred the power of pensioning off, at the full salary of £1,200 a year, a gentleman who was once a Member of this House, and who has held his present office for a period of not more than two years. The effect of these Bills, when introduced into the House, was of a startling character. It was first of all, I believe, supposed that this was an ingenious scheme for compensating the sister country for the failure of the Tipperary Bank. That was of course, however, only a superficial view of the case, but it was the popular idea when these Bills were brought before us. Now what happened to these Bills ? The Bill for the reform of the Court of Chancery in Ireland was introduced on the 4th of February ; and on the 1st of July it was abandoned. The Bill to construct a Court of Bankruptcy and Insolvency in Ireland was brought in on the 29th of February ; and on the 17th of July it was abandoned. These, however, were not solitary cases in Irish legislation. There was a Bill with respect to juries in Ireland, which was another of those measures of legal reform. It was introduced on the 5th of February ; and on the 27th of June it was abandoned. There was a Bill with respect to juvenile offenders in Ireland, which also formed part of this great scheme. It was introduced on the 4th of February ; and on the 27th of June it was abandoned. There was a Bill to deal at last with the metropolitan police of Dublin—a subject which had long attracted the attention of Parliament. That Bill was introduced on the 22nd of April ; and on the 1st of July it was abandoned. Thus, you see, that five great measures of legal reform in England, and five great measures of legal reform in Ireland, are introduced by Her Majesty's Government ; and in every case those measures are abandoned. I admit—because I wish to state the case fairly towards the Government—that two measures have been passed for the reform of the law in Ireland, which I think will be highly beneficial ; one is a Bill for the construction of a Court of Appeal in Chancery suits in Ireland, and the name of the other I cannot at this moment remember. But an hon. Friend of mine, who is not now present, stated that these Bills were virtually Bills brought forward by my hon. and learned Friend the Member for Enniskillen (Mr. Whiteside). My hon. and learned Friend proposed five considerable measures for the reform of the law and the courts in Ireland, and I am happy to say

Mr. Disraeli

that I contributed to have those Bills, as well as the Government measures on the same subjects, referred to a Select Committee ; and I believe those Bills of my hon. and learned Friend formed the basis of, and virtually are, the measures which passed through Parliament.

Sir, I have now gone over the four great subjects which were referred to in Her Majesty's Speech from the Throne, and I have placed before the House—and I hope with no rhetorical misrepresentation, for my speech consists entirely of a reference to the records of this House—what has been the result of these projected measures of the Government. But Her Majesty's Government introduced many other measures which cannot be classed in any of the categories referred to in Her Majesty's gracious Speech. Let us see, in the calmest manner and without any comment, by a reference to the records on the table, what has been the fate of those other measures. There was a measure for the superannuation of the members of the Civil Service. That question is not a new one ; it is a question, I admit, of very great difficulty ; it has been for more than twenty years a Parliamentary question, and has taxed the utmost efforts of successive Chancellors of the Exchequer. I had that case before me, and I was prepared to take action upon it. I know that the right hon. Gentleman who was my immediate successor (Mr. Gladstone) gave the utmost attention to it ; and that the right hon. Gentleman who is now Chancellor of the Exchequer is perfectly master of the subject is evident from every observation he has made upon it in this House. It is, therefore, clear, that when Her Majesty's Government determined on grappling at all with the question, they must have done so, not only with the intention, but with the hope of settling it. Now let us see what has been the result. The Civil Service Superannuation Bill was introduced on the 15th of February ; and on the 18th of July it was abandoned—and thus terminated the hopes of a most meritorious and a most ill-used body of Her Majesty's servants. There is another very important question with which Her Majesty's Government determined to deal ; and that, again, is no new question, but one which had long engaged the attention of Parliament—I mean the reform of the Corporation of the City of London. That question has been more or less before Parliament for a period of twenty years. There have been,

if I recollect right, two Royal Commissions appointed to investigate that subject, and never were there more ample materials ready than in that case on which legislation might be founded. I may further observe, that the position of the Government with respect to that question was one of unusual favour and advantage, because a colleague of the noble Lord, a Secretary of State (Mr. Labouchere), one of the most distinguished Members of the Cabinet, was, if I am not mistaken, one of the Royal Commissioners on the occasion of the last investigation. When, therefore, Her Majesty's Government resolved at last to act, they had the advantage of having in the Cabinet one who was completely master of the subject; and every one must have anticipated that the measure they would bring forward would be one perfectly adequate to the occasion, fully matured, and thoroughly adapted to the circumstances of the case. The consequence was, that the moment Her Majesty's Government announced that they had a Bill prepared upon that subject, a general feeling prevailed in the House, in the City, and, I may say, in the country, that at last this great reform was to take place. But what has been the fate of that measure? The Bill for the reform of the Corporation of the City of London was introduced on the 4th of February; and on the 26th of June it was abandoned.

I have here, Sir, another catalogue of measures to which I must advert at the risk of wearying the House; but it is of the utmost importance that we should accurately know the data on which any conclusion at which we may arrive upon this subject should be founded. I must now advert to a measure which was brought forward for the local management of the metropolis. It was brought forward by the President of the Board of Works, and he is a man, one would suppose, who knew what he was about. On the 28th of February the Bill was introduced; and on the 9th of May it was abandoned. I now proceed to a department over which another officer—the President of the Board of Health (Mr. Cowper)—presides. The President of the Board of Health was, I believe, originally a member of the profession of Mars. He was, therefore, not to be daunted by the unhappy enterprises of his colleagues. He was resolved to show a martial courage befitting the situation, and when he introduced his Bill on the 26th of May, he stated that he would not

abandon it—he demanded battle. The Bill was rejected; and I am sorry to say that, after that fitful blaze of valour, the courage even of my right hon. and gallant Friend seemed to evaporate. On the 26th of May he introduced the Burial Bill; and on the 12th of July it was abandoned. The right hon. Gentleman also introduced a Vaccination Bill on the 7th of March; and on the 10th of July it was abandoned. I have referred to the efforts that were made by another right hon. Gentleman to amend the poor law; I have noticed the two attempts that he made with that object; but I did scant justice to the legislative enterprise of that right hon. Gentleman, for I find that, besides these great efforts, he also introduced a Bill on no less difficult a subject than pauper removal. That Bill was introduced on the 1st of April; and on the 27th of June it was abandoned. There was a Bill of Her Majesty's Government that aimed at dealing with a difficulty which many Administrations have had to encounter—namely, the claims of the coal-whippers of London. A Bill to settle that difficulty was introduced on the 28th of April; and on the 4th of July it was abandoned. I must here shed a tear over the fate of a Bill which was to settle the site of the National Gallery. It was introduced on the 5th of June; and on the 12th of the same month it met a fate which I deplore. It was not abandoned, but it encountered a fate which did not permit us to hear more of it this Session. There was a Bill introduced with respect to the Dulwich charity, which demanded legislation. It was introduced on the 17th of July; and on the 21st it was abandoned. The Queen's Colleges in Ireland also engaged the attention of Her Majesty's Government. A Bill was introduced upon that subject on the 15th of July; and that Bill, too, was abandoned. The state of education in Scotland had also long occupied the attention of the Government, and upon that subject a Bill was introduced this year, which everybody thought, from the spirit of the Lord Advocate, and the uncompromising tone which seemed to animate his interesting rhetoric, was sure to be persevered in. But, no;—I find that after having been introduced on the 9th of April, it was abandoned on the 27th of June. There is another Bill, scarcely second even to these in importance, and that is the Bill on agricultural statistics. That Bill met with the same melancholy fate as the

others. It came to this House from the House of Lords; it was never brought to a division, but it was abandoned.

Now, Sir, I ask any Gentlemen in this House—I care not where they sit—whether they are votaries of Conservative progress, as we are, or whether they are advocates of Liberal movement, as hon. Gentlemen opposite are or ought to be—I ask any Gentleman is this a satisfactory state of affairs?—I ask those Gentlemen who habitually attend the House, and take the greatest part in its discussions, whether, before I placed this clear and accurate statement before them, they themselves were aware of the extent and importance of the legislative failures which have taken place this Session? I have already admitted that Her Majesty's Government succeeded in passing the Bills included in the first group of measures to which I referred at the commencement of my observations; and I have now to acknowledge that they have passed two other measures. One of these is the Bill for the retirement of the two Bishops. Now, I can only say myself that I regret that that measure did not deal with the whole question, and that it has therefore settled nothing. It is really not a measure to settle the question of the retirement of Bishops; it is a private and personal arrangement; it only provides for the retirement of two Prelates; and, although the question is one which opens considerations of the highest interest, the measure we have passed cannot be regarded as an Act of a public and general character. The other measure passed by the Government is the County Police Bill; and an excellent measure, in my opinion, it will prove. I do not wish to depreciate the merits of Her Majesty's Government in passing that Bill, when I remind them that the subject to which it relates had long engaged the attention of Parliament, and that a well-matured measure for its settlement had been introduced by the Government of Lord Aberdeen, the noble Lord himself, as Secretary for the Home Office, representing that Government upon the occasion; I only make that observation for the purpose of reminding the House that, although that measure was an important one, the House was prepared for its enactment; and that the discussion of it did not greatly occupy their time.

I think, Sir, that under these circumstances we cannot be surprised at the great dissatisfaction and discontent that have

suddenly arisen—more out of doors, I believe, than here, and therefore all the more dangerous—the great dissatisfaction and discontent that have been created by the mode in which public business has been conducted this Session. I believe—I am ready frankly to admit it—I believe that at first the House and the country were perfectly prepared to view the position of the Government with the utmost indulgence as regarded legislation. A Ministry that had terminated a war, and that was engaged for a considerable time during the sittings of Parliament in protracted negotiations for peace, was in a position to appeal to the forbearance, the indulgence, and the confidence of Parliament; and if they had said—"We are engaged in these great affairs, and therefore you must not expect from us that we should attempt to deal with any of those questions which must ultimately be settled by legislation,"—no one, I believe, would have murmured either here or in the country. But I say that it is not now in the power of the Government to urge that plea. Her Majesty's Ministers, having duly considered their position, and having greater opportunities of accurately ascertaining the real nature of that position than we who are not connected with them could possess, resolved to draw the attentive consideration of Parliament to a variety of the most important subjects that could engage the attention of a Legislature. They have held out to the country great expectations, and they cannot now be surprised that the country feels disappointed. But if this were a mere question of transient disappointment, I should not have an observation to make upon it. I cannot, however, help thinking that the time has come when the House would do well calmly to consider what is the cause of a state of affairs which we all must regret—which is most mortifying to us as a legislative assembly, and which, I think, cannot be very satisfactory to Her Majesty's Ministers. It is in order to ascertain that cause, and not, as I have already said, to frame a Bill of indictment against the Ministry, that I want to engage the attention and consideration of the House this evening, trusting that in the course of the discussion suggestions may be thrown out which must fall on the public mind, and ultimately lead to some remedial agency for this evil state of affairs. Now, Sir, it cannot be said that this unfortunate result has been occasioned by the forms of the House. I do not think there is anybody now

Mr. Disraeli

—not even the younger Member for Lambeth (Mr. Wilkinson)—who will get up and say that the forms of the House are its real cause. Hon. Gentlemen who have studied the forms of the House must be aware that since the year 1848 down to the present time, those forms have undergone a gradual but prudent curtailment; so much so that those who have considered well that subject, and who know how much wisdom and experience are embalmed in the forms of the House, rather apprehend that there has been of late years too great a diminution of the checks which they afford against precipitate legislation, than believe that we can facilitate the conduct of public business by the reduction of their number. Nor do I think there is anybody who will pretend for a moment that protracted debates or long speeches have brought about this result, because since I have had the honour of a seat in Parliament I never remember a Session which has been more remarkable for the absence of prolonged debates, or in which those Members who are in the habit of addressing us at that length to which they are entitled by their eloquence, their knowledge, their experience, and their position in this House, have trespassed so little on our attention. It is not the forms of the House, it is not the freedom and amplitude of our discussions, then, that have occasioned this lamentable state of affairs. To what cause is it then to be ascribed? I will state what I believe to have been the cause of it, and I beg the noble Lord and his colleagues not to suppose that in stating it I mean anything in any way personal to themselves. Quite the reverse. I believe the cause of this failure in legislation is mainly, if not entirely, to be attributed to the fact that the noble Lord and the hon. Gentlemen who now form the Ministry cannot command a Parliamentary majority. In the general conduct of affairs the greatest respect is paid to Gentlemen who occupy their position—a position which they obtained, in my opinion with all honour, and in a manner which, as far as the noble Lord is concerned, does, I think, the utmost credit to his spirit and promptitude. I say that the greatest respect is paid to Gentlemen who occupy that position; and I believe there is great willingness on the part of the House to fulfil its functions as to Supply. All the money which is required for the public service is cheerfully granted to the noble Lord when we are at war—if troops are wanted they are at once given to him;

and when he is engaged in negotiations, and requires forbearance, that forbearance is yielded with equal readiness. Whether he prosecutes a war or makes a treaty he can count on the support of the House. But when Her Majesty's Ministers, turning to the functions of a Minister in a legislative assembly submit measures to the consideration of Parliament, they do not meet with that confiding support which can only exist in this House, when it is founded on traditional connection or identity of principle. The noble Lord and his colleagues are, therefore, never sure that their measures will succeed; and there are two consequences that result from this circumstance of the most injurious character. The first is—and it is a great evil—that the Queen's Ministers should deem legislation necessary on subjects of paramount importance, and yet should not be able to succeed in legislating thereon. But there is another evil inevitably consequent upon this, and to which I attribute a considerable share of the present disaster. The moment a Government is habituated to defeat, the moment they find the chances are that the measures which they propose will not succeed, those measures cease to be prepared with that scrupulous exactitude, that fineness, that finish, and that completeness of detail, which characterise the measures of a Government that feel, on introducing a Bill to Parliament, all the responsibility of successful legislation; and thus it happens that a Ministry is tempted to obtain popularity for a moment, and to make for themselves some transient reputation—if you can call it reputation—by dealing with a variety of subjects, so that the country may say "Here's a Government of men of business; these are the men we want. They are going to construct a high court of appeal; questions that have remained unsolved for 300 years are now about to receive a solution from these practical men; the law of divorce is to be reformed; the law of matrimony is to be improved; the law of partnership is to be adapted to the requirements of an enlightened age and a commercial country; and other great subjects on which the thought of the nation has long been collected are at last to be settled by men who, regardless of party considerations, are determined to show what can be done by people who are animated only by a desire to pass wise and useful measures." When Parliament met it was announced on high, although anonymous,

authority, that a new era had arrived in the history of the English Parliament; that the mere struggle for power and place was to cease, and that instead of it we were to have a body of Ministers who were essentially practical men of business—who were to deal with all the difficult questions that had baffled all preceding Governments. We were told that the maxim, “measures not men,” was, for the future, to form the principle of our political life; and very shortly after that we had an illustration of the new system in the introduction of the Partnership Bill of the right hon. Gentleman the Vice President of the Board of Trade. But, Sir, what did all this end in? Why, after six months of idle phantoms and of empty noise, it is no longer “measures not men,” but it is men without measures.

Now, if it be true—and I cannot think that when the matter is pondered over many will doubt that it is true—if it be true that this unfortunate state of affairs arises from the fact of our having a Government who are unable to command a Parliamentary majority, what is the remedy which is before us? I know I shall here be met by an objection which is heard, not, perhaps, in this House so much, but which is heard in every part of the country, in the saloon, and in the market-place alike, “this is all the consequence of the Reform Bill.” [“Hear, hear!”] One of my hon. Friends near me says “Hear, hear!” and that shows how popular and how plausible is that idea. But is the Reform Bill the real cause of this state of affairs? Because, when there is a great difficulty there are always many specious explanations afloat, and the question is, although they be specious, are they true? During the last twenty-four years the Reform Bill has been in operation; and during more than a moiety of that time—for a period of at least fourteen years out of the twenty-four—you have had the affairs of this country carried on by Ministries of almost every shade of opinion, who have commanded large and compact majorities. Lord Grey, who represented the high Whigs, had not only a large and commanding majority, but he had a majority of which the only fault was that it was too large. Lord Melbourne, who represented what was called Whig-Radicalism, but what in more courteous phraseology we may now call Liberalism—Lord Melbourne for five years carried on the Government of the country with a suffi-

Mr. Disraeli

cient majority, even in a Parliament which had been called together by his political opponents. Certainly, the last two years of the six or seven over which the administration of Lord Melbourne extended were not distinguished by the same amount of Parliamentary support, but that circumstance was not to be attributed to the House of Commons; it was to be attributed to a fact which I am sure the Friends of Lord Melbourne have lived long enough to regret—the fact, namely, that he clung too long to office. On his retirement from power Sir Robert Peel appealed to the country as a Conservative Minister, and Sir Robert Peel obtained an ample majority to enable him to carry on successfully the government of the country. It does not appear, therefore, that there is any truth in the popular statement that the Reform Bill is the root of all this evil.

But it is said that this state of things may be attributed to the fact that parties are broken up. It is a favourite topic to talk of the “dislocation” of parties. Party, they say, no longer exists, because there are no longer distinctive principles among public men. That I believe is also a very current opinion. But is it true? It would be well for us to consider, for the interest of the country and for our own honour, whether the fact is so. I will not venture to make any observations upon hon. Gentlemen who are Members of this House. It is my happiness to think that I have personal friends on both sides of it, and indeed, in my opinion, the question is one too great to depend upon the opinions of individual Members either on the one side or the other. If I look to the country—if I look to society in its real sense—I mean to the society of all classes in this country—I do not find that parties are extinct—I do not find, when I listen to men of influence and mark among those classes of the community that take an active part in public affairs, that distinctive principles have ceased. I find that there exist two great classes of opinion, which are fairly represented—not that I think the epithets originally were either very happy or very precise, but which have passed into universal and popular acceptance—by the terms Conservative and Liberal. I hold, Sir, that those are two classes of opinions which are perfectly distinct, and in most instances are entirely opposed the one to the other. I will, with the permission of the House, proceed briefly, by way of illustrating my mean-

ing. to advert to some points in which I think that distinction is particularly manifest. I wish to speak of both these classes, I assure hon. Members, with the greatest respect. They are both represented in this country by numerous bodies of men, each opinion is supported by numbers, by intelligence, by property, and by respectability in every sense in which that word can be used. But their dissimilarity is perfectly perceptible. For example, I hold that a Conservative principle which regards the Parliamentary settlement of 1832 as a satisfactory settlement. I hold that to be a Conservative principle which, without blind or bigoted adherence to the doctrine on all possible occasions, believes that tampering with the suffrage is a great evil to the State. I believe I am right in saying that it is a Conservative principle which holds that the due influence of property in the exercise of the suffrage is a salutary influence. I think it is a Conservative principle that in any representative scheme the influence of landed property should be sensibly felt. I hold it to be a Conservative principle that we maintain the union between Church and State—that we should not only maintain, but expand, the ecclesiastical institutions of this country. I hold it to be a Conservative principle that the estate of the Church should be respected, and that the Church itself should not be a stipendiary of the civil power. I hold it to be a Conservative principle that we maintain the Church in Ireland, believing that maintenance perfectly reconcilable with the rights and privileges of all classes of Her Majesty's subjects in that kingdom. I hold it to be a Conservative principle to cherish and protect all traditionary influences, because they are opposed to a crude centralisation, and because they are the source of an authority at once beneficent and economical. I hold it to be a Conservative principle that would respect existing corporations (*ironical cheering*). Sir, those ironical cheers from the hon. Gentlemen opposite convince me that I am right in this estimate, and that there is a body in this country which, though I scarcely had expected it, is even represented in this House, and which holds opinions exactly the reverse of those which I have stated. [*Cheers from the Ministerial Benches.*] Those cheers from the Ministerial benches show that there is in this country, and even in this House, a body who believe that the Parliamentary

settlement of 1832 ought not to be maintained—that it arrests the progress of the movement they desire to see; a body who believe that the influence of property on the exercise of the suffrage, which we regard as wholesome, ought to be prevented; a body who, instead of cherishing and encouraging, hold the influence of landed property in the representation of the country to be an influence which ought not to be encouraged, but rather to be checked. I have no fear of misrepresenting the opinions of hon. Gentlemen opposite when I say that there are those among them who look at least with suspicion upon the union between Church and State, and who, if they bow to it, bow to it only because it is established; who are not in favour of expanding—indeed, scarcely of maintaining—our ecclesiastical institutions; who would willingly see the Church a stipendiary of the civil power; who are opposed to traditionary influences [“Hear!”], who, as the cheer of the hon. Gentleman assures us, would rather, instead of a free magistracy, have a magistracy framed upon what they consider more precise principles, but in my opinion, principles not so favourable as the present to the preservation of the public liberties of the country. I do not find fault with hon. Gentlemen for entertaining such opinions; I am trying to state them fairly; but their assent to my exposition proves that I am right in my assumption, that in this country there are two great parties, each representing distinctive principles. If I go to another great branch of public life—if I touch on the subjects which a few years ago did not attract much notice, but which at the present absorb the attention of Parliament, to the injury, perhaps, of many of those measures of internal improvement to which the Queen invited our attention in Her most gracious Speech from the Throne—I mean foreign affairs—I find in the country—I am not speaking of this House, for far be it from me to be personal to any hon. Gentleman—that there are opinions on all the great questions of foreign politics perfectly opposed to each other. Nor is this an unimportant consideration, for, let me remind the House, it is upon the prevalence of one or other of these two classes of opinion, the whole form and aspect of the history of this country may be said to depend. I have always considered, in respect to foreign affairs, that there were three great questions upon which it be-

comes any man who aspires to be a statesman in this country, as well as of any Parliamentary party which incurs the responsibility of supporting particular individuals, to have clear and precise ideas. These three subjects are—the Russian empire, the Austrian empire, and our relations with the United States of America. There is no doubt a class of persons in this country who have always looked with great jealousy upon the expansion and the policy of the Russian empire; and when we went to war with Russia the object of that party—the avowed object, which they upheld with energy, eloquence, and earnestness—was the necessity of dismembering the Russian empire. For my own part I have always been of opinion that the dismembering of the Russian empire is not an object which any statesman ought to propose to himself; that the dismemberment of the Russian empire could not be attained—even if we were successful in attaining it at all—without one of those long wars which might fatally exhaust the energies and lower the character of this country in the scale of nations; and even if the dismemberment took place, we should find that the ultimate result would be, that the balance of power in Europe would be distributed in a manner prejudicial to our interests. That I take to be the Conservative view upon this question, as opposed to the views of the other section. I apprehend that there are in this country two distinct opinions, each supported by powerful parties, on this question of foreign policy. Take, again, the case of the Austrian empire. I hold that it is the Conservative opinion that the maintenance of the Austrian empire is necessary to the independence, and, if necessary to the independence, necessary to the civilisation and even to the liberties of Europe. Sir, there is a contrary opinion to that. A great party in this country is of opinion, that from the dismemberment of the Austrian empire very great political advantages might be obtained, not for this country only, but for the whole civilised world. I would now bring you to a question which has recently been engaging our attention—to Italy. Just as the dismemberment of the Russian empire involves the question of the restoration of Poland and Finland, so the dismemberment of the Austrian empire involves the question of the independence of Hungary and the emancipation of Italy. Are we to be told, that upon these sub-

Mr. Disraeli

jects there are no different opinions in this country? Is there a single Gentleman here who is not conscious that even tomorrow he may be called upon to vote upon these questions, questions upon which the whole policy of the country depends? I hold it to be a Conservative principle to believe that, if we or any other Power should forcibly interfere in the affairs of Italy with the view of changing the political settlement of that country, the result will be, as in the case of an attempt to dismember Russia, one of those protracted wars that might fatally exhaust this country, and which, even supposing it to be successful, would leave Italy, very possibly not in the possession of Austria, but under the dominion of some other Power as little national. Let us look next to our relations with the United States. What is your policy with respect to that country? There are those who view with the utmost jealousy and regard in a litigious spirit, the progress of the United States of America—who think that any advance in their power, or any expansion of their territory, is opposed to the commercial interest, and perhaps also to the political influence of England. But I am not of that opinion—I am of a contrary opinion—[“Hear!”]—I apprehend, then, that with respect to these three subjects of foreign policy, on any one of which we may at any time be called upon to act, there are distinctive opinions: and, therefore, it is idle to pretend that parties have ceased to exist, because on all political subjects, men are now united in their sentiments. While nothing can be more monstrous than attempts on the part of the people of the United States to attack the possessions of civilised Powers—attempts, for example, to appropriate Canada or Cuba—while such violations of international law would, in the case of the United States, no doubt bring the same retribution and the same punishment as would visit infractions of public law by any other country, yet, I cannot forget that the United States, though independent, are still, in some sense, colonies, and are influenced by colonial tendencies; and, when they come in contact with large portions of territory scarcely populated, or, at the most, sparsely occupied by an indolent and unintelligent race of men, it is impossible—and you, yourselves, find it impossible—to resist the tendency to expansion; and expansion, in that sense, is not injurious to England, for it contributes to the wealth of this

country—(let me say this in a whisper, lest it cross the Atlantic)—more than that—it diminishes the power of the United States. In our foreign relations with the United States, therefore, I am opposed to that litigious spirit of jealousy which looks upon the expansion of that country and the advance of these young communities with an eye of jealousy and distrust. When I am told that parties are broken up, I reply that the Conservative party in this country retains the opinions that it always professed, and is prepared to stand by those opinions. I take it for granted that those who profess contrary opinions are equally in earnest and equally ready to assert them. But, Sir, if there is such a thing as a Conservative party—if there are such persons as Conservatives in this House—I should like to know where are the Liberals, and by whom are they represented? I do not know whether Her Majesty's Government represent them; for, so far as I can form a judgment, the opinions the noble Lord has generally professed—and I take him as the chief and ablest exponent of the views of his political associates—I cannot believe that the noble Lord is not as ready as any gentleman who sits on this side of the House to approve the Parliamentary settlement of 1832. The noble Lord has frankly and explicitly told you that he does not disapprove of the just influence of property on the exercise of the franchise—that he would resist any endeavour artificially to restrict it. He is not opposed to the land having a sensible influence on our representative system. This very Session he has announced his intention to support the Irish Church establishment—he cannot therefore be supposed to be adverse to our Ecclesiastical institutions. He has never been hostile to traditional influences—he has on every occasion cherished and promoted them. The noble Lord has never joined in any attempt to pull down the free magistracy of the country; on the contrary, he has in several instances upheld them. But, Sir, I may, perhaps, be told that, although in domestic politics the noble Lord does not differ from Gentlemen on this side of the House, it is in his external politics that he is so dangerous—that he reserves all his Liberalism for foreign affairs. ["Hear, hear!" from an hon. MEMBER on the Ministerial side.] I am glad to have my statement borne out by a follower of the noble Lord. But is this true? It so happens that during the Session of Parliament the feelings of the

House have been tested upon those three great cardinal points, upon which the foreign policy of the country must depend—the Russian empire—the Austrian empire—and our relations with the United States. Let me remind the House what was the popular feeling that existed this time last year in respect of the question of the Russian empire. Dismemberment of the Russian empire was then looked upon, not as a probability, but as an absolute necessity, by a great party in this country, and men high in office, some of whom I believe were colleagues of the noble Lord, sanctioned that opinion. Hon. Gentlemen in office publicly announced that no peace could be sanctioned by this country which did not restore the independence of Poland, or, at least, wrest the Crimea from the possession of the Emperor of Russia. There can be no doubt that there was a very general opinion that on the subject of the Russian empire the noble Lord entertained views of a very extreme character. It was, in fact, in reference to that very subject that I took occasion, in one of our debates, to lay down what I conceived the Conservative principles on which peace should be negotiated with that country. I maintained that the dismemberment of Russia was impossible, perhaps not desirable, but if attempted to be obtained it would lead to a war the duration of which I would not attempt to predict. I indicated on that occasion what I deemed were the wise and statesmanlike conditions—on which peace might be obtained. Those were not the views sanctioned by those who surround and follow the noble Lord; but when the hour for practice arrived—when the time came for the solution of the question, and we all looked to the noble Lord to ascertain his views with respect to the Russian empire, he appears to me to have been as Conservative in his conduct as we could have wished to see him. He agreed to a peace which recognised the integrity of the Russian empire, and the terms of the treaty were framed very much in accordance with the policy that I had sketched out. Therefore, as far as his views concerning the Russian empire form a test of his opinions, the noble Lord is as little a votary of Liberalism as he is on the wide range of questions of internal interest to which I have adverted. Then, turn to the Austrian empire. That unquestionably was a subject on which—notwithstanding our recent experience of the Conservative policy of the noble Lord in regard to Rus-

sia—the greatest hopes are entertained by the sincere supporters of Liberal principles; and the circumstances that occurred at the Conferences at Paris seemed to authorise some such expectations. But what really occurred? Till almost within a few weeks back, it was supposed that a violent interference was to take place in Italy, and the most important changes were anticipated, which would have totally altered the balance of power in Europe; still, so far as I can observe—from all that I can hear—there is no chance whatever of any such dangerous course being followed by the noble Lord; but, on the contrary, in a true Conservative spirit, he is endeavouring, in conjunction with our great Ally, to obtain those temperate changes in the condition of Italy which all desire, by the aid and influence of Austrian authority. Let us now come to the third case which I put. Can any one doubt that many persons believed—and for that belief, perhaps, there were more colourable causes than in the other instances—that the noble Lord would never be content with less than a war with the United States. We were told that he was prone to resent an injury or an insult without so much as asking or waiting for explanations—that no explanations would be satisfactory—that he was resolved on picking a quarrel, and a quarrel he would have. What has really occurred during the present Session of Parliament? That which seems to me a lamentable circumstance, if not a very great insult to the Government of this country. I may be permitted to say that when Mr. Crampton received his letters of dismissal from the President of the United States, I from the first endeavoured, as far as I had any influence, to discourage any discussion with respect to our relations with the United States on the narrow issue of the enlistment quarrel, and desired that when the discussion did take place it should embrace the principles on which our policy towards that country should be founded;—for I was certain that if that discussion took place, in time the people of this country would have adopted a tone which would relieve the American mind from the only cause which, as I believe, keeps alive feelings of suspicion and jealousy against this country—namely, the mode in which they were dealing with the question of the appropriation of territory. But how did the noble Lord behave when the Minister of the Queen was—I may say—expelled from the United States? It was expected by every one who had inves-

Mr. Disraeli

tigated the affair that this country would be involved, if not in a war, at least in a bitter and protracted controversy. But, on the contrary, the mild dignity of Conservatism was never more effectually represented than it was on that occasion by the noble Lord. How then, after our recent experience, can any one regard the noble Lord as the firebrand which he was for some time assumed by the world to be? Well, Sir, under the circumstances I cannot but think that the Government of which the noble Lord is the head, is Conservative. Whether I look to subjects of internal interest or the conduct which it has pursued with respect to the high questions of foreign policy, I do not see that Her Majesty's Government, in pursuing the course they did, were pursuing any other than a course in harmony with Conservative principles and Conservative practice. But because Her Majesty's Government have pursued such a course, are we justified in saying that parties are broken up? It may be very convenient to some persons to promulgate such a theory. It may be very convenient to some that such rumours should be believed; but I protest against their authenticity. I apprehend that there is a Conservative party and a Conservative policy, and if the noble Lord and his Colleagues are pursuing that policy, the inference is erroneous that the Conservative party is extinct. What party is really extinct it is not for me now to say. I would rather leave that question to the inference and the critical conclusion of the House and the country. I know it may be said that it would be more straightforward, and more in accordance with the genius of the people of this country, that the Conservative policy should be carried out by those who are avowedly Conservatives; but what I say is, that we who maintain Conservative opinions—and I do not think the hon. and learned Member for Sheffield will again term us fancifully "what remains of the Conservative party in this country"—and who deplore the consequences of a Parliamentary Session like that now closing—that we have two sources of consolation in the present state of affairs. In the first place we have, what I think should be, and what I have no doubt will be, the greatest consolation to us—to see our opinions prevalent in high places. The second, which is scarcely less important, is, that the inevitable consequence of the existing system will be an injurious in-

fluence upon the position of our rivals, the Liberal party. No party can long exist where its chief and selected men are in power, and continue to hold office, not only without carrying their principles into effect, but without even frankly avowing their profession. I see before me many Members of the Administration who obtained their seats in this House by their protestations to their constituents—by their Liberal engagements to the great Liberal party—but who, having adopted a Conservative policy, still retain their seats in that Administration. It is for them to explain their position to their constituents, and to the party in the country whom they are supposed to represent. But I would say to the Conservative party, do not lose heart; if this system continues, the Liberal party will be thrown back fifty years; nothing can long resist the deleterious influence of the position in which they are now placed with reference to the possession of power. We have then these two sources of consolation; and the people of this country will, upon reflection, soon discover what is the reason that measures of great public necessity are not passed in this House, though they are proposed by a Minister. They will find, upon reflection, that from the competitive emulation of great political parties has sprung that wise and temperate system of Government which has so long characterised the history of this country; they will cherish with still greater interest, and they will value still more highly, the distinctive principles which form parties. At any rate, when we are told—as we have been told for the last six months—that the present lamentable state of public affairs is occasioned by the break-up of parties, we, at least, can say, “That allegation does not apply to us; we are a Conservative party; we hold Conservative opinions; we are prepared to maintain them; and if a Minister who has no opinions cannot pass his measures, he has no right—and those who defend him have no right—to libel the constitution of the country, to which we owe all our reputation and our greatness.” Sir, I now move for—

“A Return of the number of Public Bills, and their Titles, the Orders for which, in any of their stages, have been discharged during the present Session, and the date of the discharge of each of such Orders.”

VISCOUNT PALMERSTON: Sir, the

right hon. Gentleman, in reviewing the proceedings of the Session, has, in the latter part of his speech, gone somewhat far a-field. Diverging from questions relating to Parliamentary business, he has called attention to the constitutional division of parties in this country, and has touched upon subjects which affect the general interests, not only of Europe, but of the civilised world. While listening to those observations of the right hon. Gentleman which related to the political tenets of the Conservative party, I was led for a while to admire, with internal thankfulness, the generosity—unequalled in this country—of a political opponent who was inculcating upon those who are considered to be his followers the doctrine, that there was nothing in the opinions or conduct of Her Majesty's Government which should prevent them from giving to that Government their entire support. I was looking forward with hopeful expectation to the manner in which in the next Session of Parliament we should all go out into the same lobby—if, indeed, there could be found any man who would give us an opportunity of doing so by a Motion adverse to the Government or involving its existence. But, Sir, I was soon disabused. These brilliant prospects were soon converted into darker hues, and the feeling of overflowing gratitude gave place to sentiments not quite so friendly. The right hon. Gentleman, feeling perhaps confidence in the attachment of his own supporters, knowing that the incitements he was holding out to desertion would be without effect, and that he was acting with perfect security in apparently desiring to transfer to us that allegiance which hitherto has been devoted to him, proceeded to adopt what I must say was a somewhat treacherous course, by endeavouring to sow disunion in the ranks of those who sit on this side of the House. Sir, I am not afraid of the result of these endeavours. I feel as confident that that part of his speech will not produce schism on this side as I presume he felt confident that his apparent inducement to desertion would not, on any future occasion, thin the ranks upon which he relies. So much, then, for that part of the right hon. Gentleman's speech which related to internal affairs, upon which, however, I will just add one word. While in the end he reproached Her Majesty's Government for abandoning liberal views, in the earlier part of his speech he made it, as it were, an accusa-

tion against the Government, that they had devoted all their attention to disturbing the internal interests of the country, and had inundated the House with more measures of improvement than it was possible to pass in the course of the Session. With regard to the right hon. Gentleman's profession of faith as to foreign affairs, no man will dispute the accuracy of his statement that our relations with Russia, with Austria, and with the United States of America are cardinal points upon which the foreign policy of this country must turn. I will not discuss with the right hon. Gentleman the practical application of his own peculiar views with regard to those three great Powers; but I must say that when, as the leader of a great party, the right hon. Gentleman takes the opportunity of explaining—from what our cousins on the other side of the Atlantic would call a "political platform"—not merely to those who happen to listen to him, but through this House to the country, the principles upon which the political policy of himself and his party is in future to be founded, I must say I think his omissions are more remarkable than his statements. It is somewhat singular—somewhat surprising—especially after the events of the last two or three years, that the right hon. Gentleman should have had nothing to say with regard to our relations with France. What we are to infer from the silence of the right hon. Gentleman on that point I cannot tell; but one may say of it that which was said of the statue of Brutus, that its absence was more striking than the presence of the others. Certainly Her Majesty's present Government have not made so imperfect a catalogue of the cardinal points of the foreign relations of this country. Of their catalogue France forms a most essential part. These, however, are the mere ornamental parts of the right hon. Gentleman's speech. I shall now turn to the more practical portion of it. I do not rise, Sir, for the purpose of carrying on a party controversy with the right hon. Gentleman. I do not, in the first place, admit the correctness of the opinion which he has expressed, that the public mind of this country is impressed with notions adverse to the efficiency of this House; and, without meaning to apply to the right hon. Gentleman any charge of want of sympathy with the House, I must say I do not think it is for one of its Members to endeavour to run down the House in the estimation of the country. I

Viscount Palmerston

shall not be tempted by the opportunity which some parts of the right hon. Gentleman's speech afford for entering upon political controversy, but shall rather endeavour, in a very few words, to vindicate the authority and character of this House. The great charge which the right hon. Gentleman has made is that a large number of measures relating to important matters, and the merit of which he did not dispute, which we have introduced to Parliament have failed; and he has inquired what was the cause. I might, if I were disposed to argue the question in that way, speak of it as a question of internal dissension in this House—"Si causam quaris circumspecte." If we ask the cause why so many of these measures have failed, I might answer that it was on account of the obstruction they met with from hon. Gentlemen on the other side of the House. ["No, no!"] At all events they failed from the resistance which they met in this House. But I do not state that in accusation of those whose obstruction has been the cause of the failure; I do not state this with the view of reproaching them for their conduct, because, for reasons I have to state, I do not think there is any just cause of complaint that good measures have been obstructed. If we were in an arbitrary country—if this were a country in which the sovereign power had nothing to do but to call round it men conversant with the different matters on which it might be necessary that new laws should be framed—if we had nothing to do but to collect the cumulative wisdom of different persons learned in the matters on which we wished to legislate, and having framed laws in accordance with their views, at once to issue them on authority, and cause them to be carried into effect—then, of course, measures would not be brought forward one day to be withdrawn the next, or abandoned after long and earnest discussion. But we must recollect that such is not the constitution of this country, and much it is to our advantage that it is not so. When, however, we are enjoying great advantages from our constitutional organisation, we must take the rough and the smooth, the good and the bad together, and must not repine at defects which are inherent in our system, from which, on the whole, we realise such great and incalculable advantages. The Government finds, on looking round, that in certain departments of the State, in particular portions of the administrative

system, affecting, perhaps, our commerce, our agriculture, and other interests, abuses and inconveniences have arisen, requiring practical remedies to be applied. The Government does its part; it devises measures calculated, as it thinks, to accomplish the ends in view, and submits those measures to Parliament; and when they come into this House no one supposes that their success or failure is to depend entirely upon their merit or demerit. Why, measures of great importance—measures calculated to produce important reforms in particular branches of the system into which abuses have crept, must necessarily meet with great resistance, partly from prejudice, partly from want of information, and partly from interested motives; because in all abuses there must be a certain number of men who profit by them, and who in our representative system are enabled to bring their resistance to bear upon this House. Therefore it is no reflection on a measure that it is opposed—it is no proof that it is not a good one, that it is not well constructed, or is not well adapted to its purpose, that when it comes into Parliament it should meet, in the first instance at least, with such resistance as to cause its failure. Well, such has been the case, undoubtedly, with regard to many of those measures to which the right hon. Gentleman has adverted. I repeat, I do not state that as a reproach to those by whose obstruction these measures have failed. Failure, at first, is an unavoidable incident to free discussion, of freedom of opinion, and of the intercourse of Members of Parliament with persons out of the House, whose organs they must necessarily be, and whose organs, if they were not, we should not—in this House, at least—see the opinions of the community properly represented. Any man who expects to see great improvements in any part of our system accomplished off-hand—to see every first attempt successful, and everything that is required done in one Session—will be lamentably disappointed. It never has been so; it never will be so; it never can be so. It is a necessary result of our free constitution that the best measures cannot be carried until a considerable length of time has elapsed, until they have been well discussed, and are well understood in the country, until prejudices have been overcome, until interests have been silenced, and until the great majority of the country has become convinced, not only of the existence of the abuse, but also of the goodness of the

remedies which it is proposed to apply. If any man looks back to the different improvements which have been made at any past period in the legislation of this country, he will, I think, perceive that such has been the usual course of events. And, Sir, though such slowness of progress is mortifying to those who bring in such measures, knowing that they are good ones—though it is disappointing to that portion of the community out of doors, who are anxiously looking for the improvements aimed at, and although, more especially, it exposes this House to censure from those ardent spirits who, not happening to be here, think that if they were here they should, by their energy, their ability, and their eloquence, overcome all resistance, and carry their views into practice, though these disappointments and mortifications occur, yet, perhaps, on the whole, this delay is not to the disadvantage of the country, because measures of improvement, however good in themselves, might fail to produce the utmost benefit which they are adapted to secure, if they were carried too hastily, before the public mind had been fairly brought into accordance with them, and before ample discussion had afforded the means of sifting them thoroughly, of removing anything in them which might be defective, and of bringing them, as far as possible, into harmony with the state of things with which they were to be connected. I say, then, Sir, that although we must regret that many of those measures which we felt it our duty to introduce in the course of this Session have not passed into law, it must be remembered that a year or a Session is but a moment in the history of a people. It is indeed a long period in the minds of ardent and ambitious men, but it is not long in the progress of a country; and the country need not suppose that, because good measures have not been passed at once, measures of the same kind will not in some future Session become law. Sir, there has certainly been no want of application or of devotion to public duties on the part of Members of this House. There never was a Session in which during the same number of days the House devoted a greater number of hours—day by day and night by night—to the public service than in the Session which is now about to close. The days on which the House has adjourned before midnight during the present Session are few in number. Indeed, during the greater portion of the Session

we have been sitting till a late hour of the morning. My hon. Friend the Member for Salford (Mr. Brotherton) seems to have entirely abdicated his functions. He has nobly sacrificed his own wishes and theories to the public good. He has not interfered of late with the sitting of the House after midnight. Therefore, if measures of importance have not passed into law in the present Session of Parliament, no one can say that it is owing to any want of diligence on the part of the Members of this House. It may be said, that it has arisen from the too great loquacity of Members—that the measures in question have been discussed too much. Well, I might at first be disposed to say, that I would rather there had been less discussion; but, taking a larger view of the matter, I do not complain, and I do not think the country has a right to complain, of the length of any discussion which was *bona fide* intended to improve or to throw light upon the measure under consideration. Now, in so far as the Government itself is concerned, hon. Members ought to bear in mind what proportion of the time of sitting included in the Session has been at our disposal. A few days ago it appeared that the House had sat 104 days. Of these, fifty-one were Government days; the rest, were days at the disposal of private Members. Of the fifty-one days, twenty were occupied by Committees of Supply, in discussing and passing estimates which form a necessary part of the public service, and the whole of these twenty days, therefore, were necessarily abstracted from the time available for the discussion of public measures. There were, I think, only twenty-two days during the whole Session on which the Government was able to bring forward and obtain a discussion upon measures of its own. And when hon. Members consider the great diversity of opinion which necessarily prevailed upon many of the subjects which the right hon. Gentleman mentioned—when they consider the complicated interests which were involved, and the resistance which some of those interests naturally offered to our proceedings, I think they will not feel that on those two-and-twenty days we were inattentive to our duty, or that more might easily have been accomplished. Moreover, Sir, three of those days were given—I need not remind hon. Members that it is not unusual for Members to ask the Government, in Parliamentary phraseology, “to give them a

Viscount Palmerston

day”—three of those days, I say, were given to independent Members, Motions hostile to the Government; three other days were taken by Members hostile to the Government, without our leave being asked, on the Motion for going into Committee of Supply. There were a few other days which were unavailable for any purpose of real business; and, as I said before, the whole amount of time during the whole course of the Session which the Government had at their disposal for their own measures, was two-and-twenty days. Now, Sir, as I have said, I do not reproach hon. Gentlemen opposite for having, from a sense of duty, obstructed measures which we thought, if passed, would have been of great advantage to the country. We trust that those measures may succeed in a future Session. Indeed, when measures of great importance are produced, which involve a conflict of interests and alterations of systems long established, I do not know that there is any disadvantage in allowing them to stand over for a time, in order that they may be well considered by the country, and that in the recess they may have directed to them the studied attention of those who are competent to understand and appreciate them in all their details. I am not even sure, if we had had our choice in regard to some of the measures to which the right hon. Gentleman has adverted, that it would not, upon full consideration, have been the better course to subject them to more mature deliberation, and reproduce them for discussion in another Session. Well, Sir, I do not stand here simply on behalf of the Government against an Opposition. An Opposition is so called, because it is its function to oppose. We do not complain of opposition to the Government, especially when it is founded upon a real conviction, derived from constituencies or large bodies of men out of doors, that the measures proposed are either bad in their nature, overstrained in their enactments, or difficult in their provisions. I do not complain of that; but standing here—if I may without presumption undertake a duty which the right hon. Gentleman has cast upon me—to defend the House of Commons, I say that, in my opinion, there is nothing in any of the statements which the right hon. Gentleman has made that ought in the slightest degree to weaken the confidence which the country has felt, and, I maintain, does feel, in this House as a branch of the Legislature. Sir, it is not

unnatural that those who sit on the opposite side of the House should take advantage of the end of a Session to recount what they term the "failures" of the Government; but, I must say, Sir, that we bear with great calmness and fortitude those partial disappointments and inconveniences to which the right hon. Gentleman has alluded, because we look with some pride and satisfaction at the victories which we have achieved upon the few occasions on which we have been called to do battle upon any great field of action. We recollect—the country will recollect—that, although good measures have been defeated by determined opponents after midnight, although the pertinacious resistance of hon. Gentlemen ensconced on the heights of the Opposition benches may, in a few instances, have been successful, and although we may have sustained some checks by having our Bills refused to be taken into consideration after such and such an hour, yet we know that, whatever may have been our mortifications and "failures" of that nature, yet upon the five or six occasions on which there have been found Gentlemen who have fairly given us a challenge to deadly combat, to fight *à l'outrance*, we have had majorities such as it has been the lot of few Governments to enjoy. We remember that our majorities have grown from 100 and 104 to, I believe, the unprecedented number of 194; and therefore, looking to these great achievements, which will not easily be effaced from the memory of the country, we think that during the recess we may console ourselves with the reflection that, in spite of those partial inconveniences to which the right hon. Gentleman had referred, we have had proofs unmistakeable that we enjoy the confidence of the House of Commons. There is no denying, there is no gainsaying the record of divisions upon votes of censure. We have had the satisfaction of seeing that, when Motions have been made, the avowed and clear object of which was to take from those who now are charged with the conduct of affairs the power which they wield, the sense of this House was expressed decidedly against such Motions. I would humbly trust that our future conduct in the offices which we hold will not belie the good faith and goodwill which the past has evidenced, and that when we meet again next year we shall not find that anything has happened in the recess calculated in any way to weaken the confidence in us which large majorities

of this House have been kind enough to express. Sir, it is true that there are many measures of great importance which we have not been able to carry. It is also true that we began this Session having on our hands the conduct of a great and an arduous war. It is true that our attention was directed to the vigorous prosecution of that war. It is true that soon after the Session began, we had thrown upon us the difficult and delicate task of conducting negotiations for peace—negotiations to be carried on in concert with Allies, in which our own opinions were not to be our only guide, and in which, therefore, great delicacy of management was required. It is further true, that we succeeded in bringing these negotiations to a satisfactory termination. Therefore, Sir, while, on the one hand, the right hon. Gentleman has done us but justice in recounting all those various and important questions to which the different Members of the Government had succeeded in giving their attention in spite of many distracting cares, while he has done us the simple justice of acknowledging that no Government, in the most peaceful and tranquil times, ever more successfully devoted their attention to measures of a great range and scope of internal improvement, and which—though for the reasons I have mentioned failed to pass—prove, at all events, the sedulous and unremitting attention of the different Members of the Government to the business of their respective departments—on the other hand, we may boast of having brought a vast and important European transaction to a good and satisfactory settlement. Sir, I trust that nothing I have said will bear, any more than the speech of the right hon. Gentleman bears, the aspect of party acrimony as between different sides of this House. I do justice to the motives which led him to make his statement; but, at the same time, I think there was nothing in that statement—I trust I have shown there was not—which ought in any degree to lower the character of this House in the opinion of the country, or to induce the nation to think less highly than it hitherto has done of our powers and functions as a deliberative and legislative assembly.

MR. MILNER GIBSON said, he would not presume to detain the House by entering into the discussion which had been going on for some time with regard to the respective merits of what were called Conservatives and Liberals. He

was one of those who had but a hazy perception of what constituted the exact difference between them. He found individuals on the other side entertaining Liberal views upon particular questions, and, on the other hand, he found gentlemen on the Ministerial benches entertaining what he called Conservative views upon particular questions. It did not appear to him to be at all useful or necessary to enter into any investigation of that kind. He wished to make one or two remarks upon some of the measures to which the right hon. Gentleman had referred. The Government had failed to carry many most useful measures; and although their failure was no doubt to a certain extent caused by that obstructive spirit which always stood in the way of reforms that trenched upon vested interests and shocked prejudices, he thought also there was another thing which conduced to their failure—namely, a belief that the Government were not very much in earnest—that they would not care very much about being defeated. He found fault with the noble Lord at the head of the Government for being too ready to beat a retreat and abandon his measures on a small show of opposition. That was what the noble Lord had done with reference to the Bill which dealt with the local charges on shipping. The Lancashire district regarded that measure as one of very great importance; but no decision was ever come to by the House with respect to it, for it was never pressed to a division, but, in the midst of the debate, all in a moment, it was abandoned. They were told that the subject was to be referred to a Select Committee; but it had already been under the consideration of a Royal Commission, and had received the fullest investigation. The right hon. Gentleman the Member for Wells (Mr. Hayter) showed too much timidity on that occasion, for if the Government had persevered they would, he believed, have carried the second reading. The reason given for withdrawing the measure, and leaving the Vice President of the Board of Trade in the lurch, was that Gentlemen on that side of the House had not sufficiently supported the Government—that they had not made speeches in favour of the measure; but he took that opportunity positively to deny that he and those who acted with him were not anxious to give the Government all the support in their power, and the only reason why

Mr. Milner Gibson

they did not express their sentiments was that the debate was suddenly brought to a conclusion, and no opportunity of doing so was afforded them. He never recollected the abandonment of a measure in the midst of a debate under similar circumstances. He hoped, however, that the Vice President of the Board of Trade would assure them that a measure on the subject would be brought forward by the Government next Session, with a resolution to carry it, if possible, through Parliament. There was another measure which he (Mr. Gibson) had himself introduced, for the repeal of the oath of abjuration, with respect to which he had some observations to make. Although the Ministers in the House of Commons supported that measure, a Cabinet Minister in another place voted against it. He was astonished that Ministers were unable to come to any understanding among themselves with regard to a measure of that description; he thought that the vote given by the Earl of Harrowby against it was a wretched vote for a member of a Liberal administration, and he hoped the noble Lord would inform his colleague that no Administration whose leading members gave such votes could claim the support of Members on that side of the House. The oath which he wished to repeal had been condemned by the House of Commons, it had been called “blasphemous” by Lord Derby, yet Members were still compelled to stand at the table and take it. He contended that no Member could take it, after the condemnation which had been passed upon it, without a sense of personal indignity. Lord Derby introduced a Bill for the purpose of dealing with the oath, but abandoned it without any apparent reason. The oath was retained only because it perpetrated an injustice on a portion of Her Majesty’s subjects, who by its means were indirectly deprived of their civil rights. He hoped the Government would make this a Cabinet question, for it was disgraceful that the City of London should for nine years have been deprived of one of its representatives, because that representative, although entitled by law to a seat in the House, was unable from conscientious motives to take an obnoxious and impious oath. The last subject upon which he had to remark was the allusion of the right hon. Gentleman (Mr. Disraeli) to the readiness with which, during the present Session, Parliament had granted sup-

plies to the Crown. Now, the public, in his opinion, believed that the House had been voting money in blind profusion; that they had been utterly reckless in regard to the public expenditure, and he was afraid that recklessness was not altogether confined to the House, but was shared by a considerable portion of the people. The language of the day was, "Do not reduce your establishments; keep up both your army and your navy; recollect your want of preparation at the commencement of the last war; and that House had sanctioned an expenditure of something like £80,000,000 per annum. If such language was held in the first year of peace, what hope had they of any reduction of taxation, of a continuation of those financial reforms which were commenced by Sir Robert Peel, and were carried on until the unfortunate moment when the war began? He was glad to hear the noble Lord the Member for London say, that it was not the policy of England to be a great military Power; but he was afraid that the Government had to some extent been pandering to the notion that they ought to aspire to that character. He believed they were not more to blame in that respect than the House, but they were certainly somewhat influenced by what Lord Brougham once called a childish passion for military parade. Such parade did not suit the genius of the institutions of England, and he thought they should still rest for their main defence on their navy. It was strange, indeed, to find candidates for seats in that House recommending themselves to electors upon the ground that they would take care that the army and navy should be kept up and that a sufficient amount of money should be expended. The duty of Members of that House was to take care that our establishments were not unnecessarily large. The business of that House was primarily to take care of the purses and liberties of their constituents, and they might be sure that the Crown and the governing classes would take care of the army and navy—their (the House of Commons) great difficulty would rather be to keep those establishments down. He hoped that next Session the noble Lord Viscount Palmerston would show that he was an economist, and that he would adopt Earl Grey's motto of "Peace, retrenchment, and reform;" otherwise the noble Lord might find that this feeling in favour of large military and naval estab-

lishments in time of peace was only a feeling of the hour. It might turn out to be a hot fit, and the noble Lord might have to suffer the cold shiver which was sure to come at the general election, when hon. Members had to go before their constituents.

MR. NAPIER said, that some years ago, at his instance, a Commission was appointed to inquire into the subject of legal education. That Commission was composed of Mr. Justice Coleridge, Vice Chancellor Wood, and himself, and other Members of the legal profession. It had worked hard, had made inquiries into the state of education abroad, on the Continent; it had framed a Report which was happily unanimous. Yet since that Report was laid upon the table, nothing had been done. There was a strong feeling on this matter. People would not go and serve on Commissions if they were to be so treated. Vice Chancellor Wood and Mr. Justice Coleridge had devoted much time and attention to the inquiry. He would ask the noble Lord if before the next Session something could not be done on the subject? The Solicitor General was known to take great interest in it. At the beginning of the Session he had put a question to the Home Secretary about it. The Report had been discussed by the Bar and was generally approved of. There was another subject which he had to bring before the House—that of the creation of a department of Public Justice. It was an important subject, which had occupied much of the attention of his noble Friend Lord Brougham, who had considered that if such department was formed, it would be the means of introducing several useful reforms. The Lord Chancellor had adopted the plan of appointing some person to improvise legislation on the matter. He (Mr. Napier) did not know what the plan was, and therefore would not criticise it; but next Session he should ask the same question as he had then, whether a Bill would be laid before Parliament? He hoped that at the opening of the next Session, the difficult subject of criminal jurisprudence would be dealt with, and he thought it worthy of the attention of the Government during the recess. Before he sat down, he would refer to what had fallen from the right hon. Gentleman the Member for Manchester (Mr. M. Gibson) with regard to the oath of abjuration. The noble Lord the Member for the City of London had supported two distinct ques-

tions—one to modernise the oath of abjuration, and the other dealing with the Jewish question. This question was altogether distinct. There would be no difficulty in removing the objections to the oath of abjuration if no reference were made to the Jews. He would recommend his right hon. Friend if he wished to make his measure acceptable, to confine himself to the modernisation of the oath, as proposed by the noble Lord the Member for the City of London, and in that case he (Mr. Napier) would give it his support. He had brought the two matters to which he had first alluded before the House, in the expectation of an assurance from the Government that they would consider them both, and submit to the House their views on the department of Public Justice.

MR. MOWBRAY complained of the inattention which private and particular interests met with at the hands of the House. The Charity Commission had recommended a reform of Dulwich College, which the House had neglected to sanction. A Report with respect to Sherbourne Hospital was framed in June, 1855. A Bill had been brought into that House on the 1st July last, which might as well have been brought in on the 1st of February, and the consequence was, that the Bill was abandoned. He certainly could not congratulate the Charity Commission in its working, and he hoped, that next Session, the right hon. Gentleman (Mr. Baines) would be prepared to bring in these schemes at the time when the Legislature could deal with them.

MR. WILKINSON observed, that there was much difference of opinion respecting the Bill for Dulwich College. One party supported it, while it was opposed by another, who wished it to be referred to a Select Committee before it passed. If the right hon. Gentleman (Mr. Disraeli) had been pleased to sneer at his experience in reference to a measure which he had proposed to the House when he brought forward that measure, he hoped that he had spoken with becoming modesty of his experience. He could, if he pleased, retort on the speech of the right hon. Gentleman, which had met with no cheers from either side of the House. He had listened to that speech with pleasure, but he could not help thinking that it would have been none the worse if it had been delivered in an hour instead of two.

MR. HADFIELD congratulated the House and the Ministry on the temper,

Mr. Napier

the dignity, and the forbearance they had shown during the Session. He congratulated more especially the Government on its conduct at an instant when we were at the point of war with those whom we might almost call our countrymen and our kinsmen—the citizens of the United States. So far were we from lowering our character by our dignified forbearance in that affair, that we had raised it to a point which it would not have reached in any other way. He appealed to the hon. Member for Derby (Mr. L. Heyworth), who had just returned from the United States, whether our conduct had not, in the estimation of the people of that country, raised our character to a point it never reached before. He hoped that these trifling matters, which had so nearly caused war between the two countries, would never occur again.

MR. BAINES said, he wished to say a single word as to the working of the recommendation of the Charity Commissioners. He agreed with the hon. Gentleman that the Act of Parliament relating to that Commission required considerable amendment; and if, during another Session of Parliament, he held the position which he then held, he hoped he should have the benefit of the experience of the hon. Member in amending that Act. Still, out of five cases which had been taken up by the Government, three had received the Royal Assent. Of the two which had not passed, the hon. Member for Lambeth had given satisfactory reasons for the postponement of the measure respecting Dulwich College. As to the Bill respecting Sherbourne Hospital, it had been introduced at a time when it was expected that there would be no opposition. The House was probably not aware what had happened to the Bill in the House of Lords. The Sherbourne Hospital was an eleemosynary charity. The Lords had introduced Amendments into the Bill, among which was one saddling the estate with the payment of £200 a year, and another transferring four advowsons belonging to the charity, from the trustees to the Bishop of Durham. These changes—he might almost call them monstrous—were of a character to which the House could not agree.

MR. VANCE complained of the manner in which Irish business was carried on in that House. He instanced the Transfer of Lands Bill, which had been nineteen times set down for second reading, and on all occasions had come on after twelve o'clock

at night. There was the Burial Bill, which had reached the Committee stage, and had been set down sixteen times, and had never come on till twelve at night. In the same way the Juries Bill had been set down nineteen times for second reading. If the right hon. Gentleman would at an early period of the next Session give a few days exclusively to Irish business, it would give more satisfaction to Irish Members.

MR. L. HEYWORTH bore testimony to the good feeling and the respect towards this country which he had found everywhere during his recent visit to the United States.

MR. LOWE said, that the right hon. Gentleman (Mr. Disraeli) had read a passage from the Speech from the Throne respecting an Amendment of the law of partnership. He had alluded to the Bill which he (Mr. Lowe) had introduced to amend that law, as a very inadequate attempt to redeem that pledge, and to his withdrawal of two Bills on the subject. This was quite true. The Bills did not redeem the pledge. But did not the right hon. Gentleman know that the Joint-stock Companies Act was only the Partnership Act under another name?—that it had redeemed the pledge to the very letter, and had passed a law of partnership in a better form than partnership existed in any part of the world, even in America. As to the Partnership Amendment Bill, it was true that he did withdraw in March the first Bill which he had introduced on the subject. It was because the right hon. Gentleman the Member for Oxfordshire (Mr. Henley), to whom the right hon. Gentleman seemed to have delegated the superintendence of his party in that House, had taken a formal exception to that Bill, that he had withdrawn it. He (Mr. Lowe) was not well versed in the forms of that House, and he therefore took it for granted that the objection was correct. He had then introduced another Bill, which had been read a third time; but the House introduced a clause which overthrew the principle on which the Bill was founded. He then certainly did in one sense abandon the Bill, but he abandoned it because he was defeated upon it—not in the sense intended by the right hon. Gentleman. He had said, again, that he had abandoned the Coalwhippers' Bill. Now, that Bill was given up because the coal owners came forward and said that they would do all that was required of them—which was merely not to pay their men in public-

houses—without an Act of Parliament. They had accepted the pledge of those gentlemen, and withdrawn the Bill. He hoped, therefore, that when the right hon. Gentleman next made out an account against him that he would omit those three Bills from the list.

Return *ordered*.

The House adjourned at Nine o'clock.

HOUSE OF LORDS,

Saturday, July 26, 1856.

MINUTES.] PUBLIC BILLS.—3^d Consolidated Fund (Appropriation); Hospitals (Dublin).

AUSTRALIAN MAIL PACKET SERVICE.

THE EARL OF HARDWICKE, advertising to the contract recently concluded by the Government for postal communication with Australia, complained that it must necessarily fail in the essential points of the communication, inasmuch as its terms were such as could not possibly be performed. The contractors undertook to perform the voyage outwards in thirty-nine days, and the voyage inwards in thirty-five days; and, in order to do that, their vessels must proceed at an average rate of from ten and a half to eleven knots an hour. The utmost speed, however, of their present vessels was nine and three quarters knots, and, therefore, it was impossible for them to complete the voyage in these periods of time. What cast suspicion over the transaction was, that tenders at a cheaper rate, and, he thought, of a superior description, had been sent in by other parties. He might be told that the contractors were liable to a penalty of £100 per day if they failed to perform the distance in the given time, but it was a notorious fact that they could well afford to pay such a penalty out of the surplus profits which would accrue to them under the contract. On the whole, he thought that the prospects of the colony, with regard to postal communication with England, were worse than ever under this new arrangement.

LORD STANLEY OF ALDERLEY expressed his regret at the absence of the Postmaster General, but said, that, as far as he was informed, he believed the penalties were sufficient to insure the performance of the contract, and that power was reserved by the Government to break the contract at any period, if it were carried out in an unsatisfactory manner. He under-

stood that the thirty-nine days meant from Suez to Australia, and as very recently a sailing vessel had accomplished the whole distance in fifty-nine days, he thought it was very probable that, with the assistance of steam, the contractors might complete the voyage in a satisfactory manner in fifty days, including the passage from England to Suez.

THE BISHOPS OF LONDON AND DURHAM RETIREMENT BILL.

Commons Amendments *considered* (according to Order).

On the Motion that the said Amendments be agreed to.

LORD REDESDALE said, his objections to the Bill were not removed by the Amendment which had been inserted in the Preamble by the other House. He was still of opinion that the resignation of the Bishops was a resignation for a consideration, and as such was illegal.

VISCOUNT DUNGANNON looked upon the Bill as most pernicious and dangerous to the interests of the Church.

THE EARL OF HARROWBY defended the Bill, which, he said, was most wholesome, and would be of the greatest advantage to the Church and to the dioceses affected. He looked back with the utmost satisfaction to the share which he had had in passing this Bill.

Lord DENMAN and the Duke of BUCLEUCH reiterated their objections to the Bill.

Motion agreed to.

THE PEERAGE.

LORD REDESDALE, adverting to a statement which had been made in one of the morning journals, that Her Majesty had been pleased to raise a right hon. Gentleman to the peerage by the title of Lord Kingston, complained generally of the practice which, he said, had been growing up of late years of conferring titles upon individuals raised to the peerage which were already held by Members of their Lordships' House.

THE LORD CHANCELLOR said, that the noble Lord's remark was in this instance founded on a mistake. Lord Kingston was not the title which was to be borne by the Gentleman alluded to, but Lord Belper. With regard to the general question, the noble Lord must remember that titles were distinguished from each other by being described of such and such a place. For instance—the noble and

Lord Stanley of Alderley

learned Lord on the cross bench bore the title of Lord Wensleydale of Wensleydale, and also of Lord Wensleydale of Walton. The President of the Board of Trade was Lord Stanley of Alderley; and there were numberless similar instances in the peerage.

LEASES AND SALES OF SETTLED ESTATES—HAMPSTEAD HEATH.

Returned from the Commons with the Amendment which the Lords disagreed to, insisted upon, with the Commons' Reasons.

THE LORD CHANCELLOR moved that their Lordships do not insist upon disagreeing to the Commons' Amendments to this Bill. The principal Amendment was the introduction of a clause which would prevent Sir Thomas Wilson, Baronet, building upon Hampstead Heath, but which was general in its operation, and would apply to all persons similarly situated. It provided that the Court of Chancery should not be at liberty to give relief to any person who had already applied to Parliament for such relief, and been refused; and the principle upon which the Commons supported this Amendment was, that no judicial power or authority created by Parliament ought to have a retrospective operation, and that the Court of Chancery ought not to be invested with powers for the purpose of reviewing the past decisions of the Houses of Parliament. He would move not to insist upon the disagreement to the said Amendment.

LORD REDESDALE observed that on the previous evening their Lordships had divided on the clause introduced by the Commons to prevent Sir Thomas Wilson from exercising the ordinary power which this Act conferred upon all other tenants for life. The numbers were equal, and consequently the Amendments were sent back not agreed to. However, on that day, the House of Commons had, by vote, insisted on their Amendments, notwithstanding the result of the division in their Lordships' House. He still believed the clause in question to be a very objectionable one.

THE EARL OF HARROWBY said, that Sir Thomas Wilson only came under the general principle of this clause, which appeared to him to be a very just one.

On Question, not to insist, their Lordships *divided*:—Content 10; Not Content 6: Majority 4.

Motion agreed to; and a message sent to the Commons to acquaint them therewith.

House adjourned to *Tuesday* next.

HOUSE OF COMMONS,

Saturday, July 26, 1856.

LEASES AND SALES OF SETTLED ESTATES BILL.—(HAMPSTEAD HEATH).

Order of the Day for the consideration of the Lords' Reasons for disagreeing to the Commons' Amendment read.

LORD ROBERT GROSVENOR said, he rose to move that the House insist on the Amendments made by them in the Bill, and which had been struck out by the Lords. He thought it was unreasonable of the Lords to ask the Commons to give up their opinion on a matter respecting which opinion was equally divided in the Upper House, as had been shown by the division which had taken place on the matter in the Upper House on the previous evening. A clause introduced by the Commons, and to which the House of Commons and the inhabitants of the metropolis attached very great importance (the clause relating to Hampstead Heath), had been struck out by the Lords. Now, viewing this matter as one of very great importance, he should move that the Commons insist on the Amendments made by them, and that a Committee be appointed to draw up a statement of the reasons which had induced the House to adopt his Motion.

Resolved, That this House doth insist on the said Amendment.

Committee *appointed*, "to draw up Reasons to be assigned to the Lords for insisting on the said Amendment:"—Lord ROBERT GROSVENOR, Sir JOHN SHELLEY, Mr. SOLICITOR GENERAL, Mr. GREENE, Mr. MASSEY, and Mr. HADFIELD:—To withdraw immediately; Three to be the quorum.

Reasons for insisting on Commons Amendment *reported and agreed to*:—To be communicated to the Lords, with Bill and Amendments.

BISHOPS—(SCOTLAND).

MR. GLADSTONE said, he rose, pursuant to notice, to call the attention of the House to the recent announcement, by Her Majesty's Government, of their intention to discontinue an allowance heretofore made to the Bishops of the Episcopal Communion in Scotland, and to the legal disabilities, not applicable to the ministers of any other religious denomination in this country, to which the said

Bishops and their clergy were subjected in common with the Episcopal Clergy of the United States of America; and to move for copies or extracts of any correspondence relating to the subject. At that period of the Session he would not enter into any detailed discussion upon the subject, but he was desirous briefly to make known to the House a very extraordinary state of facts, which, in his opinion, obviously called for the intervention of the Legislature. The case of the Scotch Episcopal Church was rather a peculiar one. It was a relic, if he might so call it, of what was once a National Establishment, which practised and adhered to the reformed religion. On account of its political connection with the fortunes of the Stuarts, it was, during the last century, subjected to the operation of prospective laws, more severe and more effective than any other laws of a similar character which were at that time in operation. The peculiarity of those laws was, that they did not touch the laity of the communion, but struck at once at its organised body of officers, and were directed positively and absolutely against their officiating to anything which could be called a congregation. Their doing so was prohibited under penalties, beginning with fine and imprisonment, and ending with transportation. Towards the close of the last century, and shortly before the beginning of the revolutionary war, when there was no longer danger from the Stuarts, Mr. Pitt introduced into Parliament a measure for the repeal of those laws. Lord Thurlow, who was then Lord Chancellor, had never heard of Scottish Bishops; he apparently regarded them as specimens of a bygone race which had been disinterred from beneath the soil, and was very apprehensive of the consequences of reviving this antiquated species, and calling it back to the world of animated life. He therefore procured the insertion in this Act of Parliament of a clause which provided that, although these persons might exercise their offices according to their consciences in Scotland, under no circumstances should they be allowed to officiate in England. Now this legislation was of the most absurd character, because Ireland was not included, and might, if there had been any disposition to occupy it, have been overrun with Scottish Bishops and clergy. Since that time the Sovereigns of the House of Hanover

had felt that these Bishops of the Episcopal Communion in Scotland, representing something of an historical religion, and being freed from all imputation of disloyalty, were entitled to certain marks of Royal consideration. These had been bestowed upon them at various times and by various Sovereigns, particularly by George IV., who, when he visited Scotland, about the year 1822 gave them a substantial mark of his favour in the shape of a small Treasury grant, the amount of which was at first £1,200 every two years, but which was afterwards converted into an annual grant of £600. His (Mr. Gladstone's) hon. Friend the Secretary of the Treasury (Mr. Wilson) recently stated that it had been determined to withdraw that grant which had never been placed upon the Estimates, but had for something like thirty years been paid out of the Vote for Civil Contingencies, as a part of which it had annually been brought under discussion, and to which opposition had been raised by some hon. Members on the ground that it was of the nature of a State preference of a particular denomination. Now, he did not pretend to say that it would be expedient to give a permanent character to this grant. His only complaint was, that it ought not to have been suddenly withdrawn, but ought, according to the precedent set by Lord Derby when Secretary of State under Lord Grey's Administration, in the case of the North American provinces, to have been continued for the lives of the persons who had received it. Their incomes were exceedingly narrow, and the House ought not to disappoint individual expectations reasonably entertained, or to depart from its ordinary liberal rules in the case of any particular class. He therefore did not preclude himself from raising, on some future occasion, the question, whether it would not be consistent with the rules and practice of that House to continue this small allowance for the lives of those persons who had been in the actual receipt of it. That, however, was a minor question. To the withdrawal of the grant in principle he made no objection; indeed, at the time that he was Chancellor of the Exchequer, he stated, in reply to an application that measures might be taken to make this grant permanent, that he could give no encouragement to any such proposal. What he now, however, wanted to bring under the consideration of the Government

Mr. Gladstone

and of the House was the extraordinary burden of disability under which the Bishops and clergy of the Scottish Episcopal Communion now laboured. There were at this moment on our Statute Book proscriptive laws against the holding of cures of souls or benefices in England against two limited bodies of men only. It might be expected that the subjects of these prohibitions were Mormonites or professors of some hideous and unheard-of form of religion; but such was not the case. They were, on the contrary, the members of the two religious communions with which on questions of doctrine and discipline the Church of England stood in the most immediate relation of agreement. They were the Protestant Episcopal Communities of Scotland, and of the United States, which sprung from the loins of the Church of England respectively in the 17th and 18th centuries. The ministers of any other religion might, by fulfilling the proper legal conditions, qualify themselves for the ministry of the Church of England. Any Member of the House of Commons might qualify himself, be ordained, and become a minister of that Church. Any Roman Catholic priest was, by his orders, qualified to present himself for ordination. Any priest of the Greek or Eastern church, any priest, minister, or layman of any Christian denomination whatever, any Mahomedan, any Hindoo, any Kafir, any Hottentot, upon complying with certain rules, might be presented to a benefice in the Church of England; but the unfortunate minister of the Episcopal Communion in Scotland and of the Protestant Episcopal Church in America could not, as the law now stood, by any possibility, hold a cure of souls or a benefice in that Church. To make the matter still more ridiculous, this disability was founded on no spiritual incompetency, because the competency of those persons had been fully recognised by a recent Act of Parliament, which allowed the ministers of those two communities to administer in England, with the licence of a Bishop, all the most sacred offices of the Church. They might preach, baptize, offer prayers, celebrate the Eucharist, and, if Bishops, confirm and ordain, and do all other things which were within the episcopal functions: yet we committed the absurdity of saying that, in no case should they hold a cure of souls. Now, that was a state of the law which he maintained required alteration, and the moment at which the last mark of

temporal consideration for those persons had been withdrawn was, he considered, a most appropriate time for making such an alteration. He hoped, therefore, that his right hon. Friend the Chancellor of the Exchequer, whom he saw in his place, would yield to the fairness of the claim, and would admit that this was a most invidious proscription, and one to which an end ought to be put. He was quite ready to admit that it might not be wise simply to repeal those laws without making some provision to prevent improper persons resorting to Scotland or America for ordination with a view to holding benefices in England. The agreement of those communities with the Church of England was a reason why Parliament should take security against the abuse of any facilities for ordination which might exist in those countries. He did not imagine that there would be any such facilities, because he believed that with regard to ordination the Scottish Bishops were quite as strict as the English ones—indeed stricter, he apprehended, than some of the more lenient of the latter Prelates. Still he considered that there was a fair ground for making special rules, such as that according to which a clergyman ordained by a Bishop of the Colonial Church could not hold a benefice in England without the consent of the Bishop of the diocese, and also of the Archbishop of the province. The existing prohibition was monstrous, and quite at variance with the spirit of modern legislation; and he was, therefore, sanguine that his right hon. Friend the Chancellor of the Exchequer and the other Members of the Government would take a view of it similar to his own, and would speedily introduce into Parliament a Bill for its abrogation.

MR. BLACK said, that he was by no means favourable to Parliamentary grants for religious purposes, deeming the principle both vicious and unconstitutional, but at the same time he was unwilling that an act of injustice should be done to any party, and he thought it rather hard that the Episcopal Communion in Scotland should be singled out for more severe treatment than was awarded to any other class of religionists. The Scottish recipients of this small bounty were fairly entitled to expect that, as it had been granted to them for thirty consecutive years, it would be continued for their lifetime. They were gentlemen of exemplary piety, between whom and the Apostles

there was at least one point of resemblance—poverty. The legislative disabilities under which they laboured were a disgrace to modern civilisation, and a reproach to the statute book.

MR. PELLATT said, he thought that the improvements suggested by the right hon. Gentleman the Member for the University of Oxford (Mr. Gladstone) should emanate from the Church and not from the Legislature.

MR. DUNCAN said, he hoped the Government would consider the matter, for the present state of the law was disgraceful. He trusted that the working clergy would be looked to as well as the Bishops.

THE CHANCELLOR OF THE EXCHEQUER said, he was not aware of the existence of the disqualifications to which the right hon. Gentleman the Member for the University of Oxford had referred, nor could he conceive what rational argument could be urged in their favour. [MR. GLADSTONE: They were introduced by Lord Thurlow in a Bill passed in 1792.] It scarcely needed the logical and forensic diction of the right hon. Gentleman to display the absurdity and illiberality of such regulations. However, as they existed by virtue of an Act of Parliament, it would need the interference of the Legislature to remove them, and it would not be competent for the Church to do so by its own action. There was no difference between the religious tenets of the Episcopal Communion in Scotland and those of the Established Church in this country. Each subscribed to the Thirty-nine Articles, and though there might be some distinction in their liturgies, there was none in their doctrinal opinions. Whatever the opinion of Lord Thurlow, who was no great theologian, might have been on this question, it was very certain that these disqualifications, affecting one of two classes of religionists which were precisely identical in faith, were entirely irrational. The present seemed a gracious moment to revoke them, when the Government had found itself compelled by a sense of public duty to take away the small grant heretofore enjoyed by the Episcopal Communion in Scotland. It was with great reluctance that the Government had done so; but there were reasons which, in their view, rendered it imperative to take the step. The grant had been usually made once in two years. Previous to the surrender by the Crown of the hereditary revenues, which took place on the accession

of William IV., the charge was defrayed from that source of income, but it had since that period been defrayed from the Vote for Civil Contingencies, there being now no fund at the disposal of the Crown to meet charges of that description. The first grant appeared to have been made in 1813, by a Treasury Minute, dated the 28th of December in that year, upon a representation from the Protestant Bishops in Scotland of the inadequacy of the incomes of many of the Episcopal clergy, which had been reduced in some cases to £20 a year. The grant was again made in 1815, but did not appear to have been paid regularly until 1828. From that date £1,200 had been paid once in two years. The hereditary revenue having been surrendered to the public, the grant must now be provided for from public funds. The annual sums of £2,000 for the poor clergy of the Scotch Presbyterian Church, and of £1,100 for the officers of the General Assembly managing the affairs of that Church, were payable from the Consolidated Fund under the Act of 2 & 3 Will. 4, c. 116, passed for the purpose of giving effect to the recommendations of the Committee on Civil Government Charges in 1831. The charge for the Episcopal clergy was not included in the items mentioned in the Report of the Committee, but no doubt it would have been provided for in like manner had it been adverted to at the time as likely to become a permanent charge. The sum was divided in proportions of £100 to each of the six Bishops, and the remainder among the inferior clergy according to the discretion of the trustees, subject to the limit of £80 as the maximum of the emolument of each. It having been represented that the funds at the disposal of the Government for Civil Contingencies could not with propriety be applied to such purposes as the grant contemplated, the Government had to decide whether they would place it on the annual Votes or discontinue it altogether. Looking at all the circumstances of the case, and having particular regard to the fact that the Episcopal Church in Scotland was upon the whole a wealthy communion, its resources being considerable, and its numbers not greater than those of a large London parish; and remembering, also, that in Scotland they were Nonconformists, the Government came to the conclusion that it would not be advisable to place the grant on the annual Votes, and that the latter al-

The Chancellor of the Exchequer

ternative—that of abolishing it altogether—was the only one that could be adopted. The Government had arrived at that determination with considerable reluctance, but they had not felt justified in taking any other course.

MR. THOMPSON said, he approved the conduct of the Government in withdrawing the grant; but he would submit that the legal disqualifications to which its former recipients were liable ought also to be removed.

Motion agreed to.

MR. CONSUL MATHEW—EXPLANATION.

MR. GLADSTONE said, he begged to ask the permission of the House to make a brief personal explanation with respect to a gentleman who undeservedly, as regarded himself, had been a sufferer on public grounds. He alluded to Mr. Mathew, who had lately held the office of British Consul in America, but from whom his *exequatur* had been withdrawn on the charge that he had been implicated in breaches of the American law in matters relating to the enlistment question. The proceedings of Mr. Consul Mathew had been taken in the most direct and straightforward manner. He had reported all that he had done to his official superior, Mr. Crampton; that gentleman had, in his turn, reported his proceedings to the Government, by whom they were sanctioned and approved. It was clear, therefore, that, whatever might be thought of the merits of the general question, no blame could fairly attach to Mr. Consul Mathew. The responsibility of his proceedings, if they constituted a breach of the American law, was transferred to his superiors, and if he had gone wrong he had done so in his zeal for his country, and in his earnest desire to carry into effect the instructions of those who were in authority over him. In acquainting them with the course he had taken, and in procuring their approval of it, he had placed himself beyond the possibility of offence, but, unfortunately, as it appeared, not of punishment. He was undeservedly a sufferer, and he (Mr. Gladstone) considered him to be well entitled to the consideration of the English Government. He had been given to understand, however, that in the course of the debate on the enlistment question words were imputed to him (Mr. Gladstone) to the effect that he was not disposed to give entire credence to the statements of Mr. Consul Mathew. If any such words had indeed

been attributed to him, all he could say was that they had been erroneously attributed, for, in point of fact, he gave the fullest credence to the statements of that gentleman, whom he believed to be an honourable and well-intentioned man.

THE ROSS-SHIRE RIFLES.

On the Motion, "That the House at its rising do adjourn till Tuesday."

THE EARL OF DALKEITH said, he wished to call the attention of the House to the case of Captain Frazer, late adjutant of the Ross-shire militia. Having regard to the late period of the Session, and to the circumstance that the Under Secretary for War was not in his place, he should not go into the details of the subject, but would reserve to himself the right of bringing it under the consideration of the House early next Session. At present he would merely observe that Captain Frazer appeared to have been treated with singular severity in having been deprived of his commission in the Ross-shire Rifles by the Secretary for War, on account of some alleged neglect with reference to a certain correspondence on the subject of some transactions which had occurred in the Highland regiment, in which he had been an officer previously to his connection with the Ross-shire Rifles. The Secretary for War had taken this power into his own hands, contrary to the opinion of the Judge Advocate, who, when the whole case was referred to him, stated that if a court-martial had been granted its extreme sentence would have been a reprimand.

GENERAL BEATSON.

MR. ROEBUCK said, that on the night of the 22nd instant both the noble Lord at the head of the Government and the Under Secretary for War (Mr. F. Peel) stated that the proceedings against General Beatson were continuing; that the charges were, in fact, at that very time held over his head. On the following morning, that of the 23rd of July, General Beatson received a letter acquitting him of all the charges which had been made against him. Had the hon. Gentleman (Mr. Peel) been in his place he (Mr. Roebuck) should have put to him this question—"Seeing that your acquittal was passed in consequence of your having had in your possession for at least one fortnight documentary evidence respecting the charges against General Beatson, did you at the time that you made the declaration, that the charge was

still hanging over his head, contemplate writing the letter of the 23rd? If you did, you misled the House by that statement, and any statement you may hereafter make must be taken with the consideration that you made such a statement."

THE CHANCELLOR OF THE EXCHEQUER said, he apprehended that it was not competent for the noble Lord (Lord Dalkeith) to make a Motion on the question of adjournment. His hon. Friend the Under Secretary for War would be in his place on Tuesday and would then give any explanation that might be required. He would no doubt, on the same day, answer the question of the hon. and learned Member for Sheffield.

Motion for the adjournment of the House till Tuesday *agreed to*.

PENSIONS—EXPLANATION.

THE CHANCELLOR OF THE EXCHEQUER said, he wished to give an explanation with reference to certain small pensions originally chargeable on the Civil List, to which the hon. and learned Gentleman the Member for Sheffield (Mr. Roebuck) had called attention the other evening, but it was a mistake to suppose that when those pensions were transferred from the Civil List to the Consolidated Fund, Government had made any profit on the difference between the nominal grant, as at first regulated, and the actual payment subsequently made. Pensions originally chargeable on the Civil List were liable, while thus circumstanced, to certain deductions in the nature of fees and taxes, but when, on the succession of Her Majesty those pensions were transferred to the Consolidated Fund, the net amount was paid to the recipients. The public gained nothing, nor did the recipients lose anything by the operation.

The House adjourned at Two o'clock till *Tuesday next*.

HOUSE OF LORDS,

Tuesday, July 29, 1856.

MINUTES.] *Took the Oaths.*—The Lord Vernon.
PUBLIC BILLS.—1st Conveyance of Sites for Hospitals.

ROYAL ASSENT.—Consolidated Fund (Appropriation); Charities; Cambridge University; Court of Chancery (Ireland) (Receivers); Coatham Marriages Validity; Indemnity; Episcopal and Capitular Estates Continuance; Customs (No. 2); Railways Act (Ireland) 1851, Con-

tinuance; Turnpike Acts Continuance (Ireland); Bankruptcy (Scotland); Unlawful Oaths (Ireland); Commissioners of Supply (Scotland); Intestates Personal Estates; Oxford College Estates; Commons Inclosure (No. 2); Marriage Law (Scotland) Amending; Income and Land Taxes; Stamp Duties; Racehorse Duty; Coast-guard Service; Corrupt Practices Prevention; General Board of Health Continuance; Militia Pay; Cursitor Baron of the Exchequer; Lunatic Asylums Act Amendment; Deeds (Scotland); Judicial Procedure, &c. (Scotland); Court of Appeal in Chancery (Ireland); Mercantile Law Amendment; Sheep, &c. Contagious Diseases Prevention; Courts of Common Law (Ireland); Nuisances Removal, &c. (Scotland) (No. 2); Formation, &c. of Parishes; Smoke Nuisance Abatement (Metropolis) Act, 1853, Amendment; Burial-grounds (Ireland); Lunatic Asylums (Superannuations) (Ireland); Joint-stock Banks; County Courts Acts Amendment; Stoke Poges Hospital; Evidence in Foreign Suits; Bishops of London and Durham Retirement; Hay and Straw Trade; Metropolis Local Management Act Amendment (No. 2); Vice President of Committee of Council on Education; Reformatory and Industrial Schools; Poor Law Amendment (Scotland); Marriage and Registration Acts Amendment; Criminal Justice; Leases and Sales of Settled Estates; Hospitals (Dublin).

PROROGATION OF THE PARLIAMENT—
SPEECH OF THE LORDS COMMISSIONERS.

The PARLIAMENT was this day prorogued by Commission.

THE LORDS COMMISSIONERS, namely, the Lord Chancellor (Lord CRANWORTH), the Lord Privy Seal (the Earl of HARROWBY), the President of the Board of Trade (Lord STANLEY of ALDERLEY), the Lord WILLOUGHBY D'ERESBY, and the Lord MONT-EAGLE, being seated at the foot of the Throne, and the COMMONS preceded by their Speaker being present, the ROYAL ASSENT was given to several Bills.

THE LORD CHANCELLOR, on behalf of the LORDS COMMISSIONERS, then delivered the following Speech:—

My Lords, and Gentlemen,

“WE are commanded by Her Majesty to release you from further Attendance in Parliament, and at the same Time to express to you Her warm Acknowledgments for the Zeal and Assiduity with which you have applied yourselves to the Discharge of your Public Duties during the Session.

“WHEN Her Majesty met you in Parliament at the Opening of the Ses-

sion Her Majesty was engaged, in Co-operation with Her Allies, The Emperor of the *French*, The King of *Sardinia*, and The Sultan, in an arduous War, having for its Object Matters of high *European* Importance; and Her Majesty appealed to your Loyalty and Patriotism for the necessary Means to carry on that War with the Energy and Vigour essential to Success.

“You answered nobly the Appeal then made to you; and Her Majesty was enabled to prepare for the Operations of the expected Campaign Naval and Military Forces worthy of the Power and Reputation of this Country.

“HAPPILY it became unnecessary to apply those Forces to the Purposes for which they had been destined. A Treaty was concluded by which the Objects for which the War had been undertaken were fully attained; and an honourable Peace has saved *Europe* from the Calamities of continued Warfare.

“HER MAJESTY trusts that the Benefits resulting from that Peace will be extensive and permanent; and that while the Friendships and Alliances which were cemented by common Exertions during the Contest will gain Strength by mutual Interests in Peace, those Asperities which inherently belong to Conflict will give place to the Confidence and Goodwill with which a faithful Execution of Engagements will inspire those who have learnt to respect each other as Antagonists.

“HER MAJESTY commands us to thank you for your Support in the Hour of Trial, and to express to you Her fervent Hope that the Prosperity of Her faithful People, which was not materially checked by the Pressure of War, may continue and be increased by the genial Influence of Peace.

"HER MAJESTY is engaged in Negotiations on the Subject of Questions in connection with the Affairs of *Central America*; and Her Majesty hopes that the Differences which have arisen on those Matters between Her Majesty's Government and that of the *United States* may be satisfactorily adjusted.

"WE are commanded by Her Majesty to inform you that Her Majesty desires to avail Herself of this Occasion to express the Pleasure which it afforded Her to receive during the War in which She has been engaged numerous and honourable Proofs of Loyalty and Public Spirit from Her Majesty's *Indian Territories*, and from those Colonial Possessions which constitute so valuable and important a Part of the Dominions of Her Majesty's Crown.

"HER MAJESTY has given Her cordial Assent to the Act for rendering more effectual the Police in Counties and Boroughs in *England* and *Wales*. This Act will materially add to the Security of Person and Property, and will thus afford increased Encouragement to the Exertions of honest Industry.

"HER MAJESTY rejoices to think that the Act for the Improvement of the internal Arrangements of the University of *Cambridge* will give fresh Powers of Usefulness to that ancient and renowned Seat of Learning.

"THE Act for regulating Joint-stock Companies will afford additional Facilities for the advantageous Employment of Capital, and will thus tend to promote the Development of the Resources of the Country; while the Acts passed relative to the Mercantile Laws of *England* and of *Scotland* will diminish the Inconvenience which the Differences of those Laws occasion to Her Majesty's Subjects engaged in Trade.

"HER MAJESTY has seen with satisfaction that you have given your Attention to the Arrangements connected with County Courts. It is Her Majesty's anxious Wish that Justice should be attainable by all Classes of Her Subjects with as much Speed and with as little Expense as may be consistent with the due Investigation of the Merits of Causes to be tried.

"HER MAJESTY trusts that the Act for placing the Coast-Guard under the Direction of the Board of Admiralty will afford the Groundwork for Arrangements for providing, in Time of Peace, Means applicable to National Defence on the Occurrence of any future Emergency.

"*Gentlemen of the House of Commons,*

"WE are commanded by Her Majesty to thank you for the Readiness with which you have granted the Supplies for the present Year.

"*My Lords, and Gentlemen,*

"HER MAJESTY commands us to congratulate you on the favourable State of the Revenue, and upon the thriving Condition of all Branches of the National Industry; and She acknowledges with Gratitude the Loyalty of Her faithful Subjects, and that Spirit of Order and that Respect for the Law which prevail in every Part of Her Dominions.

"HER MAJESTY commands us to express Her Confidence that on your Return to your Homes you will promote, by your Influence and Example, in your several Districts, that continued and progressive Improvement which is the vital Principle of the Well-being of Nations; and Her Majesty fervently prays that the Blessing of Almighty

God may attend your Steps, and prosper your Doings for the Welfare and Happiness of Her People."

Then a Commission for proroguing the Parliament was read.

After which

The LORD CHANCELLOR said—

"MY LORDS, AND GENTLEMEN,

"By virtue of Her Majesty's Commission, under the Great Seal, to us and other Lords directed, and now read, we do, in Her Majesty's Name, and in obedience to Her Commands, prorogue this Parliament to *Tuesday* the Seventh Day of *October* next, to be then here holden; and this Parliament is accordingly prorogued to *Tuesday* the Seventh Day of *October* next."

HOUSE OF COMMONS,

Tuesday, July 29, 1856.

MINUTE.] NEW MEMBER SWORN.—For County of Dorset, Henry Gerard Sturt, esq.

THE LEITRIM MILITIA—QUESTION.

MR. BRADY said, he would beg to ask the hon. Under Secretary for War why the staff of the Leitrim Militia was not to be quartered in the county town in accordance with the recommendation of the Lord Lieutenant of the county?

MR. FREDERICK PEEL said, that the arrangements respecting the staff of the Irish Militia rested with the Irish Government. There had not been any correspondence on the subject with the War Department.

MR. BRADY said, he would then beg to address his question to the right hon. Gentleman the Chief Secretary for Ireland.

MR. HORSMAN said, that, not having any notice of the question, he was unable to answer it.

ARMY WORKS CORPS—QUESTION.

SIR JOHN SHELLEY said, he wished to put a question to the hon. Under Secretary for War. Considerable dissatisfaction had been felt by the men of the Army Works Corps because they did not receive a printed discharge on their re-

turn to this country. That omission had, however, been repaired by a subsequent arrangement; and he now wished to ask the hon. Gentleman whether the claim made by the men to pay from the date of their landing up to the receipt of their discharge would be taken into the early consideration of the Government?

MR. FREDERICK PEEL said, he was informed that the great body of the men had been settled with on their arrival, and had returned to their homes perfectly satisfied; but a small number had moved this question relative to the sums to which they supposed they were entitled. There could be no doubt their discharge dated from the period of their arrival in this country, and they would therefore all be paid up to that time, but they were not entitled to anything more.

SIR JOHN SHELLEY said, he wished the Government to consider that these men, not having been discharged, were unable to obtain employment elsewhere. They wished to be placed on the same footing as the militia. The number that had brought forward this grievance was not so small as the hon. Gentleman seemed to suppose. It was above 400 men. He would ask if the Government would take the case into their consideration at an early moment?

SIR JOSEPH PAXTON said, that he had investigated almost every one of the claims that had been made; and in every case he had found that the statement about their not being able to obtain employment elsewhere was groundless. In not one case had there been the least difficulty through their not having a written discharge. The terms upon which they had been engaged were that they should have a free passage to this country, and on arriving here should receive a gratuity. They had received their gratuity, and had given a written receipt for it; and the men had all been dealt with according to the original arrangement.

FRENCH DECORATIONS—QUESTION.

COLONEL NORTH said, he wished to ask the hon. Under Secretary for War if there was any objection to lay upon the table the documents bearing the names of the British officers and soldiers upon whom the medals granted by the Emperor of the French had been conferred.

MR. FREDERICK PEEL said, there would be no objection to lay those documents upon the table.

CASE OF GENERAL BEATSON—
QUESTION.

MR. ROEBUCK: I rise, Sir, to put a question of which I gave notice on Saturday. The House will recollect that both the noble Lord at the head of the Government and the hon. Gentleman the Under Secretary for War stated the other night that the inquiry into the conduct of General Beatson was still pending, and that the House ought therefore to abstain from expressing any opinion on the subject. On the day after that statement was made, the 23rd of July, a letter was written by the Government to General Beatson, based upon documents which had been in the possession of the War Department a fortnight before, and giving a full acquittal to that officer. I wish to ask the noble Lord whether he was aware of those documents when he addressed the House the other night? I suppose he only spoke the words that had been set down for him. That excuse cannot, however, apply to the hon. Gentleman (Mr. F. Peel), who must have had cognisance of the documents when he made his statement to the House.

VISCOUNT PALMERSTON: Sir, the circumstance to which the hon. and learned Gentleman alludes only shows the bad results attending the interposition of hon. Members, at the instigation of persons not in this House, upon matters which are still under the consideration of Government, and have not yet been made the subject of action. I practised no deception on the House. I was quite aware that this question had been considered by my noble Friend at the head of the War Department; and I stated the other night, as distinctly as I could, that in a very few days a decision would be come to by the Government and a communication made to General Beatson. I did not think it proper then to inform either the hon. and learned Member or the House what would be the decision on this matter at which the Government were likely to arrive. If any inconvenience has arisen it is owing, therefore, to the impatient haste of the hon. and learned Gentleman, acting on a suggestion of General Beatson, on a question that was pending elsewhere. Of course, until the decision had been definitively taken, and regularly communicated to the gallant officer concerned, it might have been liable to a change in the event of certain circumstances being brought to the knowledge of my noble Friend.

MR. FREDERICK PEEL said, he

would only add to the statement just made by his noble Friend, that in answering the speech of the hon. and gallant Member for Portarlington (Colonel Dunne) on a previous evening, he (Mr. F. Peel) said, in substance, that although the correspondence had not been completed, yet the communications received by the Government did not support the charges made against General Beatson.

MR. ROEBUCK: The hon. Gentleman said that the inquiry was still pending.

MR. FREDERICK PEEL: I made use of no such an expression.

COLONEL DUNNE said, he would give notice, that early next Session he should call the attention of the House to the manner in which officers in the army were put upon their trial on the most serious charges, without receiving any previous notice of the accusations brought against them. That practice was one deeply affecting the honour and discipline of the army, and must touch the feelings of every soldier.

COLONEL FRENCH said, he should be glad to know whether, now that the inquiry in General Beatson's case was concluded, the noble Lord at the head of the Government had any objection to mention the name of the gallant officer's accuser?

VISCOUNT PALMERSTON: Sir, I do not know from whom General Shirley received the information which he communicated to General Vivian, and which the latter sent home to my noble Friend at the head of the War Department; nor am I aware that my noble Friend knows their names either. One officer whose name has been mentioned in connection with this matter is Colonel O'Reilly—a man of perfect honour and the highest integrity, who was distinguished for his ardent desire to improve himself in his profession, and who with that view served as a volunteer in the Sardinian army, and also in the armies of other countries. He afterwards went to Turkey, where he was appointed to the command of the Turkish cavalry. As far as anything communicated by General Shirley originated with Colonel O'Reilly, I am confident, therefore, that the latter stated only what he believed to be strictly correct.

SIR CHARLES BURRELL said, he thought the proceedings instituted against General Beatson, whose accuser was allowed to remain anonymous, were extremely harsh, and contrary to the spirit of the law of England.

VISCOUNT PALMERSTON: Sir, while General Beatson was in England the parties from whom the information came were at Schumla, and afterwards at Kertch. The inquiry ordered by my noble Friend was merely a preliminary one, to see whether further steps were necessary.

SMITHFIELD—QUESTION.

VISCOUNT RAYNHAM said, he would beg to ask the Chancellor of the Exchequer whether, as Smithfield could not again be converted into a cattle-market, there was any objection to the immediate removal of all the pens and barriers remaining there, so as to enable it to become a place of recreation for the inhabitants of that crowded locality?

THE CHANCELLOR OF THE EXCHEQUER said, that no doubt Smithfield was in its present state very unsightly, and also somewhat inconvenient. There were difficulties, however, which existed as to the ownership of the site; and it was impossible, under any circumstances, to appropriate it without an Act of Parliament. If the railings were now to be removed, there would be a large open space left, which it would be difficult to keep in proper order.

THE CRIMEAN INQUIRY—QUESTION.

COLONEL NORTH said, the Report recently laid on the table with reference to the condition of the army in the Crimea attributed many of the disasters which took place to the want of forage, he wished to know whether it was the intention of Her Majesty's Government to take any notice of the very gross neglect which had been exhibited by Sir Charles Trevelyan, who was at the head of the department responsible for such supplies?

VISCOUNT PALMERSTON replied, that Sir Charles Trevelyan was not examined before the Board of General Officers, and he had not an opportunity of making any statement as to the course pursued by the Treasury. Sir Charles Trevelyan was only the organ of the Treasury, but of course an opportunity would be afforded him, as an executive officer of the department, of giving any explanation he might think necessary.

COLONEL NORTH said, that he would take an early opportunity, in the next Session of Parliament, of bringing the subject under the consideration of the House. Sir Charles Trevelyan had positively refused to attend the Board, and had issued a pamphlet containing statements which in his (Colonel North's) opinion, were most disrespectful to the Board.

THE CHANCELLOR OF THE EXCHEQUER said, that Sir Charles Trevelyan had sent in a written statement to the Board of General Officers, but, inasmuch as neither his conduct individually, nor the conduct of the Treasury, was referred to the consideration of that Board, Sir Charles Trevelyan did not think it his duty to appear before the Board to give evidence. He (the Chancellor of the Exchequer) had been in communication with Sir Charles Trevelyan on the subject of the Crimean inquiry; and, with reference to the notice which had just been given by the hon. and gallant Member for Oxfordshire, he thought it right to state that Sir Charles Trevelyan disputed altogether the correctness of the conclusions at which the Board had arrived so far as the Treasury were concerned.

PROROGATION OF PARLIAMENT.

Message to attend the LORDS COMMISSIONERS. The House went; and the ROYAL ASSENT was given to several Bills. And a Speech of the LORDS COMMISSIONERS was delivered to both Houses afterwards by the LORD CHANCELLOR.

Then a Commission for proroguing the Parliament was read.

After which

THE LORD CHANCELLOR said;

“MY LORDS, AND GENTLEMEN,

“BY virtue of HER MAJESTY'S Commission, under the Great Seal, to us and other Lords directed, and now read, we do, in Her Majesty's Name and in obedience to Her Commands, prorogue this Parliament to Tuesday the 7th day of October next, to be then here holden; and this Parliament is accordingly prorogued to Tuesday the 7th day of October next.”

A TABLE OF ALL THE STATUTES

PASSED IN THE FOURTH SESSION OF
THE SIXTEENTH PARLIAMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND IRELAND,

19° & 20° VICT.

PUBLIC GENERAL ACTS.

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| <p>I. AN Act to regulate certain Offices of the House of Commons.</p> <p>II. An Act to amend the Acts relating to the Metropolitan Police.</p> <p>III. An Act to extend the Period for which Her Majesty may grant Letters Patent of Incorporation to Joint Stock Banks in <i>Scotland</i> existing before the Act of One thousand eight hundred and forty-six.</p> <p>IV. An Act to apply the Sum of One million six hundred and thirty-one thousand and five Pounds One Shilling and Five-pence out of the Consolidated Fund to the Service of the Year ending the Thirty-first day of <i>March</i> One thousand eight hundred and fifty-six.</p> <p>V. An Act for funding Exchequer Bills and raising Money by way of Annuities.</p> <p>VI. An Act for raising Five Millions by way of Annuities.</p> <p>VII. An Act to apply the Sum of Twenty-six Millions out of the Consolidated Fund to the Service of the Year One thousand eight hundred and fifty-six.</p> <p>VIII. An Act for the Regulation of Her Majesty's Royal Marine Forces while on shore.</p> <p>IX. An Act to amend the Acts relating to the Advance of Public Money to promote the Improvement of Land.</p> <p>X. An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.</p> <p>XI. An Act to authorize the Inclosure of certain Lands in pursuance of a Report of the Inclosure Commissioners for <i>England</i> and <i>Wales</i>.</p> <p>XII. An Act to confirm certain Provisional Orders made under an Act of the Fifteenth Year of Her present Majesty, to facilitate Arrangements for the Relief of Turnpike Trusts.</p> <p>XIII. An Act to make Provision for the Management of certain Lands belonging to Her Majesty within the former Limits of the late Forest of <i>Delamere</i> in the County of <i>Chester</i>.</p> <p>XIV. An Act to abolish the Office of Secretary to the Poor Law Commissioners in <i>Ireland</i>.</p> <p>XV. An Act for further regulating the Payment of the Out-Pensioners of <i>Greenwich</i> and <i>Chelsea</i> Hospitals.</p> | <p>XVI. An Act to empower the Court of Queen's Bench to order certain Offenders to be tried at the Central Criminal Court.</p> <p>XVII. An Act to authorize for a further Period the Advance of Money out of the Consolidated Fund for carrying on Public Works and Fisheries and for the Employment of the Poor.</p> <p>XVIII. An Act to authorise for a further Period the Application of Money for the Purposes of Loans for carrying on Public Works in <i>Ireland</i>.</p> <p>XIX. An Act for raising the Sum of Twenty-one Million one hundred and eighty-two thousand seven hundred Pounds by Exchequer Bills for the Service of the Year One thousand eight hundred and fifty-six.</p> <p>XX. An Act to continue certain Compositions payable to Bankers who have ceased to issue Bank Notes.</p> <p>XXI. An Act for raising the further Sum of Five Millions by way of Annuities.</p> <p>XXII. An Act to amend the Laws relating to the Duties on Fire Insurances.</p> <p>XXIII. An Act for granting certain additional Powers and Authorities to the <i>Canada</i> Company.</p> <p>XXIV. An Act for enabling the Commissioners of Public Works in <i>Ireland</i> to acquire certain Lands for the Site of a Prison for the Reception of Juvenile Convicts.</p> <p>XXV. An Act to amend the Law relating to Drafts on Bankers.</p> <p>XXVI. An Act to confirm Provisional Orders of the General Board of Health applying the Public Health Act, 1848, to the Districts of <i>Waterloo with Seaforth</i>, <i>West Ham</i>, <i>Sowerby Bridge</i>, and <i>Moss-side</i>; for Alteration of the Boundaries of the Districts of <i>Rusholme</i> and <i>Bishop Auckland</i>; and for other Purposes.</p> <p>XXVII. An Act to amend the Acts relating to Pawnbrokers.</p> <p>XXVIII. An Act to make further Provision for rendering Reformatory and Industrial Schools in <i>Scotland</i> more available for the Benefit of Vagrant Children.</p> <p>XXIX. An Act to extend the Powers of the Trustees and Director of the National Gallery, and</p> |
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PUBLIC GENERAL ACTS.

- to authorize the Sale of Works of Art belonging to the Public.
- XXX. An Act to settle an Annuity on Sir *William Fenwick Williams*, in consideration of his eminent Services.
- XXXI. An Act to amend the Act of the Seventeenth and Eighteenth Years of Her Majesty, concerning the University of *Oxford* and the College of *Saint Mary Winchester*.
- XXXII. An Act to amend the *Whichwood Disafforesting Act, 1853*.
- XXXIII. An Act to continue the Act for extending for a limited Time the Provision for Abatement of Income Tax in respect of Insurance on Lives.
- XXXIV. An Act to grant Allowances of Excise Duty on Malt in Stock; to alter and regulate certain Drawbacks and Allowances in respect of Malt Duty; to repeal and re-impose the Excise Duty on Sugar used in brewing Beer; and to amend the Law relating to Malt Roasters.
- XXXV. An Act to authorize the *West India Relief Commissioners* to grant further Time for the Repayment of Monies advanced by them in certain Cases.
- XXXVI. An Act for the better Preservation of the Peace in *Ireland*.
- XXXVII. An Act to amend the Act for transferring to Counties in *Ireland* certain Works constructed wholly or in part with the Public Money.
- XXXVIII. An Act for the further Amendment of the Laws relating to Labour in Factories.
- XXXIX. An Act to carry into effect a Convention respecting a Loan by Her Majesty to the King of *Sardinia*.
- XL. An Act to amend an Act of the Seventeenth and Eighteenth Years of Her present Majesty relating to Industrial and Provident Societies.
- LXI. An Act to make further Provision for the Establishment of Savings Banks for Seamen.
- LXII. An Act to continue the Act for the Exemption of Stock in Trade from Rating.
- XLIII. An Act to authorize Issues out of the Consolidated Fund for the Redemption of certain Annuities charged on Branches of the gross Revenue.
- XLIV. An Act for raising the Sum of Four Millions by Exchequer Bills and Exchequer Bonds, for the Service of the Year One thousand eight hundred and fifty-six.
- XLV. An Act for confirming a Scheme of the Charity Commissioners for *Saint Mary Magdalen Hospital* near *Bath*.
- XLVI. An Act to exempt Imprisonments under the Act of 5 Geo. IV. c. 96. from the Operation of the Act abolishing in *Scotland* Imprisonment for Civil Debts of small Amount.
- XLVII. An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations.
- XLVIII. An Act for amending the Procedure before Magistrates and Justices of Peace in *Scotland*.
- XLIX. An Act to continue certain Turnpike Acts in *Great Britain*.
- L. An Act to enable Parishioners and others, forming a numerous Class, to sell Advowsons held by or in trust for them, and to apply the Proceeds in providing Parsonage Houses, augmenting small Livings, and to other beneficial Purposes; and for giving other Powers to such Persons.
- LI. An Act to permit the Use of Rice in the Distillation of Spirits.
- LII. An Act to suspend the making of Lists and the Ballots for the Militia of the United Kingdom.
- LIII. An Act for confirming a Scheme of the Charity Commissioners for the Endowed School at *Moulton* in the County of *Lincoln*.
- LIV. An Act to facilitate the Despatch of Business before Grand Juries in *England* and *Wales*.
- LV. An Act for transferring the Powers of the Church Building Commissioners to the Ecclesiastical Commissioners for *England*.
- LVI. An Act to constitute the Court of Session the Court of Exchequer in *Scotland*, and to regulate Procedure in matters connected with the Exchequer.
- LVII. An Act to abolish the Jurisdiction of the Court of the Liberties and Manor of *Saint Sepulchre* in and near *Dublin*, and for the future Regulation of certain Markets of the said Manor.
- LVIII. An Act to amend the Law for the Registration of Persons entitled to vote in the Election of Members to serve in Parliament for Burghs in *Scotland*.
- LIX. An Act to alter the Mode of providing for certain Expenses now charged upon certain Parts of the Public Revenue.
- LX. An Act to amend the Laws of *Scotland* affecting Trade and Commerce.
- LXI. An Act to continue an Act for the Survey of *Great Britain*, *Berwick-upon-Tweed*, and the *Isle of Man*.
- LXII. An Act to provide for the Maintenance of Navigations made in connexion with Drainage, and to make further Provision in relation to Works of Drainage in *Ireland*.
- LXIII. An Act to amend the Acts relating to Grand Juries in *Ireland*.
- LXIV. An Act to repeal certain Statutes which are not in use.
- LXV. An Act to encourage the providing of improved Dwellings for the Labouring Classes in *Ireland*.
- LXVI. An Act to extinguish certain Rights of Way and to stop up certain Roads and Paths near the Camp at *Aldershot*.
- LXVII. An Act to extend the Period for applying for a Sale under the Acts for facilitating the Sale and Transfer of Incumbered Estates in *Ireland*, and to amend the said Acts.
- LXVIII. An Act to further amend the Laws relating to Prisons in *Ireland*.
- LXIX. An Act to render more effectual the Police in Counties and Boroughs in *England* and *Wales*.
- LXX. An Act to render valid certain Marriages in the Church at *Coatham* in the Parish of *Kirk Leatham* in the County of *York*.
- LXXI. An Act to continue certain Acts for regulating Turnpike Roads in *Ireland*.
- LXXII. An Act to continue "The Railways Act (*Ireland*), 1851."
- LXXIII. An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those Purposes respectively.
- LXXIV. An Act to continue the Act to facilitate the Management and Improvement of Episcopal and Capitular Estates in *England*.

PUBLIC GENERAL ACTS.

- LXXV.** An Act for the further Alteration and Amendment of the Laws and Duties of Customs.
- LXXVI.** An Act to continue for a limited Time the Exemption of certain Charities from the Operation of the Charitable Trusts Acts.
- LXXVII.** An Act to amend the Law and Practice of the Court of Chancery in *Ireland* in relation to the Appointment of Receivers over Real Estate, and to expedite the Sale of Estates in the said Court.
- LXXVIII.** An Act to continue the Act of the Second and Third Years of Her Majesty, Chapter Seventy-four, for preventing the administering and taking of unlawful Oaths in *Ireland*, as amended by an Act of the Eleventh and Twelfth Years of Her Majesty's Reign.
- LXXIX.** An Act to consolidate and amend the Laws relating to Bankruptcy in *Scotland*.
- LXXX.** An Act to grant Relief in assessing the Income Tax on Lands in *Scotland* in respect of certain Public Burdens charged thereon; to alter and regulate the Allowances to Clerks to the Commissioners of Income Tax; and to amend the Laws relating to the Land, Assessed, and Income Taxes, and the Redemption and Purchase of the Land Tax.
- LXXXI.** An Act to reduce the Stamp Duties on certain Instruments of Proxy; to amend the Laws relating to the stamping of Articles of Clerkship to Attorneys and others; and to exempt from Stamp Duty Admissions to the Freedom of the City of *London* by Redemption.
- LXXXII.** An Act to repeal and reimpose under new Regulations the Duty on Race-horses.
- LXXXIII.** An Act to provide for the better Defence of the Coasts of the Realm, and the more ready Manning of the Navy, and to transfer to the Admiralty the Government of the Coast Guard.
- LXXXIV.** An Act to continue the Corrupt Practices Prevention Act, 1854.
- LXXXV.** An Act to continue the General Board of Health.
- LXXXVI.** An Act to abolish the Office of Cur-sitor Baron of the Exchequer.
- LXXXVII.** An Act to amend the Lunatic Asylums Act, 1853.
- LXXXVIII.** An Act to make further Provision for the good Government and Extension of the University of *Cambridge*, of the Colleges therein, and of the College of King *Henry* the Sixth at *Eton*.
- LXXXIX.** An Act to abolish certain unnecessary Forms in the framing of Deeds in *Scotland*.
- XC.** An Act to defray the Charge of the Pay, Clothing, and contingent and other Expenses of the Disembodied Militia in *Great Britain* and *Ireland*; to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quartermasters, Surgeons, Assistant Surgeons, and Surgeons Mates of the Militia; and to authorise the Employment of the Non-commissioned Officers.
- XCI.** An Act to amend and re-enact certain Provisions of an Act of the Fifty-fourth Year of King *George* the Third, relating to Judicial Procedure and Securities for Debts in *Scotland*.
- XCII.** An Act to constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in *Ireland*.
- XCIII.** An Act to constitute all legally qualified Persons in *Scotland* Commissioners of Supply without being named in an Act of Supply.
- XCIV.** An Act for the uniform Administration of Intestates Estates.
- XCV.** An Act to give to the University of *Oxford* and to Colleges in the said University, and to the College of *Saint Mary* of *Winchester* near *Winchester*, Power to sell and exchange Lands, under certain Conditions.
- XCVI.** An Act for amending the Law of Marriage in *Scotland*.
- XCVII.** An Act to amend the Laws of *England* and *Ireland* affecting Trade and Commerce.
- XCVIII.** An Act to amend the Laws relating to the Burial of the Dead in *Ireland*.
- XCIX.** An Act to amend the Acts relating to Lunatic Asylums in *Ireland*, so far as relates to Superannuations.
- C.** An Act to amend the Law with respect to the Election of Directors of Joint Stock Banks in *England*.
- CI.** An Act to continue certain Acts to prevent the spreading of contagious or infectious Disorders among Sheep, Cattle, and other Animals.
- CII.** An Act to further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in *Ireland*.
- CIII.** An Act to make better Provision for the Removal of Nuisances, Regulation of Lodging Houses, and the Health of Towns in *Scotland*.
- CIV.** An Act to extend the Provisions of an Act of the Sixth and Seventh Years of Her Majesty, for making better Provision for the Spiritual Care of populous Parishes, and further to provide for the Formation and Endowment of separate and distinct Parishes.
- CV.** An Act to apply a Sum out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year One thousand eight hundred and fifty-six, and to appropriate the Supplies granted in this Session of Parliament.
- CVI.** An Act to authorise the Inclosure of certain Lands in pursuance of a Special Report of the Inclosure Commissioners for *England* and *Wales*.
- CVII.** An Act to amend the Smoke Nuisance Abatement (Metropolis) Act, 1853.
- CVIII.** An Act to amend the Acts relating to the County Courts.
- CIX.** An Act to amend the Mode of committing Criminal and Vagrant Children to Reformatory and Industrial Schools.
- CX.** An Act for the better Regulation of the House of Industry Hospitals and other Hospitals in *Dublin* supported wholly or in part by Parliamentary Grants.
- CXI.** An Act for confirming a scheme of the Charity Commissioners for *Stoke Poges* Hospital in the County of *Bucks*, with certain Alterations.
- CXII.** An Act to amend the Act of the last Session of Parliament, Chapter One hundred and twenty, for the better Local Management of the Metropolis.
- CXIII.** An Act to provide for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals.
- CXIV.** An Act to prevent False Packing and other Frauds in the Hay and Straw Trade.

LOCAL AND PERSONAL ACTS.

- CXV. An Act to provide for the Retirement of the present Bishops of *London* and *Durham*.
 CXVI. An Act for the Appointment of a Vice President of the Committee of Council on Education.
 CXVII. An Act to amend the Law relating to the Relief of the Poor in *Scotland*.
 CXVIII. An Act to amend the Act of the last

- Session of Parliament for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases.
 CXIX. An Act to amend the Provisions of the Marriage and Registration Acts.
 CXX. An Act to facilitate Leases and Sales of Settled Estates.

LOCAL AND PERSONAL ACTS,

DECLARED PUBLIC,

AND TO BE JUDICIALLY NOTICED.

- i. **A**N Act to enable the *London Dock Company* to raise a further Sum of Money.
- ii. An Act for supplying with Gas the Townships of *Knottingley* and *Ferrybridge* in the West Riding of the County of *York*.
- iii. An Act to extend the Period limited for the Exercise of the Powers of the Colonial Bank ; and for other Purposes.
- iv. An Act for lighting with Gas the Borough of *Weymouth* and *Melcombe Regis*, and its Neighbourhood, in the County of *Dorset* ; and for other Purposes.
- v. An Act for vesting in the Mayor, Aldermen, and Burgesses of the Borough of *Liverpool* the Undertaking of the *Chorley Waterworks Company*, and for other Purposes.
- vi. An Act for incorporating the *Lancaster Gaslight Company*, and extending their Powers, and for authorising additional Works, and the raising of further Moneys ; and for other Purposes.
- vii. An Act to enable the *Haslingden and Rawtenstall Waterworks Company* to raise a further Sum of Money, and for other Purposes.
- viii. An Act to enable the *Southport Waterworks Company* to raise a further Sum of Money, and for other Purposes.
- ix. An Act for the better supplying with Gas the Parish of *Gainsborough* in *Lincolnshire*.
- x. An Act for enabling the Company of Proprietors of *Lambeth Waterworks* to raise further Money, and for other Purposes.
- xi. An Act for effecting certain Alterations in the Works of the Tidal Harbour of *Victoria Dock* at *Dundee*, and for other Purposes in relation to the Harbour of *Dundee*.
- xii. An Act to enable the *Lincoln Waterworks Company* to raise a further Sum of Money.
- xiii. An Act for granting further Powers to the *Heywood Gaslight and Coke Company*.
- xiv. An Act for the incorporating of the *Milford Railway Company*, and for the making of the *Milford Railway* in the County of *Pembroke*.
- xv. An Act to enable the *Eastern Counties and London and Blackwall Railway Companies* to raise a further Sum of Money for the Purposes of the *London, Tilbury, and Southend Extension Railway* ; to amend the Acts relating to such Undertaking ; and for other Purposes.
- xvi. An Act for making a Railway from the *Wilts, Somerset, and Weymouth Railway*, near *Frome*, to *Shepton Mallett* in the County of *Somerset*.
- xvii. An Act to confirm an Award for the Settlement of Matters in difference between the University and Borough of *Cambridge*, and for other Purposes connected therewith.
- xviii. An Act to enable the *Ulster Railway Company* to subscribe towards the Undertaking of the *Portadown and Dungannon Railway Company*, and to authorize certain Arrangements between the said Companies, and for other Purposes.
- xix. An Act for supplying with Water the Town of *Filey* and the Environs and Neighbourhood thereof, and other places in the East and North Ridings of the County of *York*, and for authorizing the purchase of the *Filey Gasworks*, and for supplying the said town with Gas ; and for other Purposes.
- xx. An Act to empower the *Wakefield Gaslight Company* to raise a further Sum of Money.
- xxi. An Act for incorporating the *Workop Gas Company*.
- xxii. An Act to amend and extend the Provisions of "The *Llanidloes and Newtown Railway Act, 1853* ;" and to enable the *Llanidloes and Newtown Railway Company* to make certain Deviations in their authorised Line and Levels, and for other Purposes.
- xxiii. An Act to confer further Powers on the *Boston Gaslight and Coke Company*.
- xxiv. An Act to enable the *East of Fife Railway Company* to make a Deviation in the Line of their Railway and for other Purposes.
- xxv. An Act for continuing the Term and amending and extending the Provisions of the Act relating to the *Leicester and Welford Turnpike Road*, in the Counties of *Leicester* and *Northampton*.
- xxvi. An Act for more effectually paving, cleansing, lighting, and otherwise improving the Town of *Gravesend* in the County of *Kent*.
- xxvii. An Act to enable the *Scarborough Waterworks Company* to raise a further Sum of Money, and to extend the Limits for the Supply of Water, and to amend the Provisions of the Act relating to such Company.
- xxviii. An Act to repeal the Acts relating to the *Sleaford and Tattershall Turnpike Road*, and to make other Provisions in lieu thereof.
- xxix. An Act to confer further Powers on the *Bath Gaslight and Coke Company*.

LOCAL AND PERSONAL ACTS.

- xxx. An Act to confer further Powers on the *Cheltenham Gaslight and Coke Company*.
- xxxi. An Act for continuing the Term and amending the Provisions of the Act for making and maintaining a Turnpike Road from the Town of *Crowland* in the County of *Lincoln* to the Town of *Eye* in the County of *Northampton*.
- xxxii. An Act to extend the Municipal Boundaries of the City of *Edinburgh*, to transfer the Powers of the Commissioners of Police to the Magistrates and Council, and for other Purposes relating to the Municipality of the said City.
- xxxiii. An Act to authorize the *Cork and Youghal Railway Company* to extend their Railway into *Cork*, and for other Purposes.
- xxxiv. An Act for altering the Name of the *Banbridge, Newry, Dublin, and Belfast Junction Railway Company* to the Name "*The Banbridge Junction Railway Company*," for increasing their Capital and extending their Powers, and for other Purposes.
- xxxv. An Act for enlarging and improving the Justiciary Court House, and Court Houses and Public Buildings of the City of *Glasgow* and County of *Lanark*, for erecting additional Buildings, for amending the Act relating thereto, and for other Purposes.
- xxxvi. An Act for making better Provision for supplying the Districts of *Dewsbury, Balley, and Heckmondwite* with Water, and for confirming an Agreement between the Local Boards of Health of those Districts; and for other Purposes.
- xxxvii. An Act for the Continuance and Regulation of the *Kettering, and Newport Pagnell Turnpike Road Trust*.
- xxxviii. An Act to amend the Provisions and extend the Limits of the Act relating to the City of *Coventry Gaslight Company*.
- xxxix. An Act to authorize the making of a Turnpike Road from the Township of *Thornaby* to *Middlesbrough* in the North Riding of the County of *York*, with a Bridge over a Creek or Arm of the River *Tees*, and for other Purposes.
- xl. An Act to authorize the making of a Railway from the *Great North of Scotland Railway* to *Alford* in the County of *Aberdeen*, to be called "*The Alford Valley Railway*."
- xli. An Act to amend "*The Saint Ives and West Cornwall Junction Railway Act, 1853*."
- xl. An Act to make further Provision for supplying with Water the Borough of *Shrewsbury* in the County of *Salop*.
- xliii. An Act to amend an Act passed in the 7th and 8th Years of the Reign of His late Majesty King *George the Fourth*, intituled *An Act to alter, amend, and enlarge the Powers and Provisions of an Act relating to the Road from Barnsdale through Pontefract to Thwaite Gate near Leeds in the West Riding of the County of York*, and to continue the Term thereby granted.
- xliv. An Act for regulating the Capital of the *Fleetwood, Preston, and West Riding Junction Railway Company*, for making further Provision with respect to Tolls to be taken on the Railway, and for other Purposes.
- xlv. An Act for making a Railway from the *Chester and Holyhead Railway* at or near to *Rhyl* in the County of *Flint* to the Town of *Denbigh* in the County of *Denbigh*, to be called "*The Vale of Clwyd Railway*."
- xlvi. An Act to discontinue the taking of Toll on the Turnpike Roads leading from the Town of *Antrim* towards *Coleraine*, and to provide for the future Maintenance of such Roads.
- xlvi. An Act to amend and consolidate the Acts relating to the *Shrewsbury and Hereford Railway Company*, to enable that Company to raise further Sums of Money, to acquire additional Lands; and for other Purposes.
- xlvi. An Act to enable the Mayor, Alderman, and Burgesses of the Borough of *Cork* to remove certain Bridges, and to build new Bridges in lieu thereof; to confirm certain Arrangements with the *Cork Pipe Water Trustees*; to provide the necessary Funds for affording an improved Supply of Water at *Cork*; to alter, amend, and enlarge certain Powers and Provisions of the *Cork Improvement Act, 1852*; and for other Purposes.
- xlix. An Act to amend and extend the Provisions of the several Acts relating to the *Knareborough and Green Hammerton Turnpike Road* in the County of *York*, and to create a further Term therein; and for other Purposes.
- i. An Act to amend and extend the Provisions of the Act relating to the *Knareborough and Pateley Bridge Turnpike Road*, and to create a further Term therein, and for other Purposes.
- ii. An Act for regulating the Capital and Mortgage Debt of the *Eastern Counties Railway Company*, and for other Purposes.
- lii. An Act for extending the Time for the Completion of the Works authorized by "*The Hampstead Junction Railway Act, 1853*."
- liii. An Act for making a Railway from *Lowestoft* to join the *East Suffolk Railway* in the Parish of *Beccles*, all in the County of *Suffolk*, and for other Purposes connected therewith.
- liv. An Act to enable the *Midland Railway Company* to raise additional Capital, and for other Purposes.
- lv. An Act for more effectually repairing the Road from *Barnby Moor* in the County of *Nottingham* to *Maltby* in the County of *York*, and from *Whiston* to *Rotherham* in the said County of *York*.
- lvi. An Act for better paving the City of *Glasgow*, and for other Purposes in relation to the Statute Labour of the said City.
- lvii. An Act for the Transfer of the *Wolverhampton Waterworks* to the *Wolverhampton New Waterworks Company*, and for other Purposes.
- lviii. An Act for repairing the Road from *Blackburn* in the County Palatine of *Lancaster* to *Addingham* and *Cocking End* in the West Riding of the County of *York*, and the Road from *Old Accrington* to its Junction with such Road in *Habergham Eaves* in the said County of *Lancaster*.
- lix. An Act to incorporate "*The West Ham Gas Company*," to enable them to raise further Money, to confirm a Contract between the said Company and the *Commercial Gas Company*, and for other Purposes.
- lx. An Act to continue the *Honiton and Sidmouth Turnpike Trust*, and for other Purposes.
- lxi. An Act for making a Railway from the *Chappel Station* of the *Colchester, Stour Valley, Sudbury, and Halstead Railway* to *Bulstead* in the County of *Essex*, and for other Purposes.

LOCAL AND PERSONAL ACTS.

- lxii. An Act to incorporate "*The Wandsworth and Putney Gaslight and Coke Company*," and for other Purposes.
- lxiii. An Act to authorise the *North British Railway Company* to raise more Money, and to build a Bridge over *Leith Wynd* in *Edinburgh*, and for other Purposes.
- lxiv. An Act for more effectually repairing the Road from *Penrith* to *Cockermouth*, and other Roads connected therewith, and for making and maintaining several new Roads, all in the County of *Cumberland*.
- lxv. An Act to consolidate the Drainage Trusts in *Deeping Fen* in the County of *Lincoln*, and for other Purposes relating to the said Fen.
- lxvi. An Act for more effectually repairing certain Roads in the County of *Chester*, of which the Short Title is "*Stockport and Warrington Road Act, 1856*."
- lxvii. An Act for enlarging and improving the *Elgin and Lossiemouth Harbour*, for raising a further Sum of Money, and for other Purposes.
- lxviii. An Act to enable the *Carmarthen and Cardigan Railway Company* to make a Deviation of a Portion of their Line of Railway, and to abandon Parts thereof, and to grant further Powers to the Company; and for other Purposes.
- lxix. An Act to enable the *Luton, Dunstable, and Welwyn Junction Railway Company* to alter the present authorised Junction of their Railway with the *Leighton Buzzard and Dunstable Branch* of the *London and North-western Railway*; and for other Purposes.
- lxx. An Act for incorporating the *Scottish Drainage and Improvement Company*, and to afford greater Facilities for the Improvement of Land in *Scotland*.
- lxxi. An Act for making a Railway from *Lymington* in the County of *Southampton* to the *London and South-western Railway* at *Brockenhurst* in the same County, to be called the "*Lymington Railway*," with a Landing Place at *Lymington* aforesaid, and for other Purposes.
- lxxii. An Act to repeal the Acts relating to the *Brough and Eamont Bridge Turnpike Road*, and to make other Provisions in lieu thereof.
- lxxiii. An Act to renew the Term, and continue, amend, and enlarge the Powers of an Act passed in the Third Year of the Reign of His Majesty King *George the Fourth*, intituled *An Act for repairing and amending the Roads from Donington High Bridge to Hale Drove, and to the Eighth Milestone in the Parish of Wigtoft, and to Langret Ferry in the County of Lincoln*.
- lxxiv. An Act for supplying with Water the Inhabitants of *Clay Cross*, and the Neighbourhood, in the County of *Derby*.
- lxxv. An Act for making a Railway from *Sittingbourne* to *Sheerness*, all in the County of *Kent*; and for other Purposes.
- lxxvi. An Act to enable the *Eastern Counties and London and Blackwall Railway Companies* to extend the *London, Tilbury, and Southend Extension Railway* to the *London and Blackwall Railway*, with Branches therefrom, and to authorise certain Arrangements with reference thereto; and for other Purposes.
- lxxvii. An Act to authorise the Division of the Borough of *Middlesbrough* into Wards; to enable the Local Board of Health of the District of *Middlesbrough* to purchase Gasworks and light the District, and to enlarge the Market Place; to enable the Corporation to establish a public Wharf, and a Passage over the River *Tees*; to confer other Powers on the Local Board and the Corporation, and for other Purposes.
- lxxviii. An Act for the better Supply of the Town of *Terquay* and the Neighbourhood thereof with Water, and for other Purposes.
- lxxix. An Act for making a Railway from *Yarmouth* to the *East Suffolk Railway* in the Parish of *Haddiscoe*, with a Branch Railway connected therewith, and for other Purposes.
- lxxx. An Act to sanction a Supply of Water to the Town and Neighbourhood of *Leeds* from the River *Wharfe*.
- lxxxi. An Act to attach further Advantages to certain Portions of the Capital of the *Eastern Union Railway Company*.
- lxxxii. An Act to repeal *An Act for amending and maintaining the Turnpike Road from Bawtry, through the town of Tinsley, to the Road from Rotherham to Sheffield in the West Riding of the County of York*, and to make other Provisions in lieu thereof.
- lxxxiii. An Act for continuing the Term and amending and extending the Provisions of the Act relating to the *Godley Lane Turnpike Road* in the West Riding of the County of *York*.
- lxxxiv. An Act to repeal the Act relating to the Turnpike Roads from *Halifax* to *Huddersfield* in the West Riding of the County of *York*, and to grant a further Term in the said Roads, and further Powers for the Management thereof, and other Purposes.
- lxxxv. An Act for carrying into effect certain Arrangements between the Trustees of the *Renfrewshire Turnpike Roads* and the Lord Provost, Magistrates, and Council, and Police and Statute Labour Committee, of *Glasgow*; and for continuing in other respects the Acts relating to the said Roads.
- lxxxvi. An Act to enable the *Morayshire Railway Company* to construct a Railway from *Orton* to *Craigellachie*, and for other Purposes.
- lxxxvii. An Act for authorising Traffic Arrangements between the *West End of London and Crystal Palace* and the *London, Brighton, and South Coast Railway Companies*, the Regulation and Increase of Capital, and for other Purposes.
- lxxxviii. An Act to afford Facilities to the *Bagenalstown and Wexford Railway Company* for raising the Funds necessary to enable them to execute their Undertaking, and for other Purposes.
- lxxxix. An Act for more effectually repairing several Roads leading to and from the Town of *Monmouth*, and for making several Lines of Road to communicate therewith, in the Counties of *Monmouth, Gloucester, and Hereford*.
- xc. An Act for the Improvement of Part of the District of *St. Peter Bournemouth*, in the Parishes of *Christchurch* and *Holdenhurst* in the County of *Southampton*, and for providing a Pier there.
- xci. An Act for better supplying with Water the City of *Edinburgh* and Town and Port of *Leith* and Places adjacent.
- xcii. An Act for making a Railway from the *Epsom Branch* of the *London, Brighton, and South Coast Railway* at *Epsom* to *Leatherhead*.

LOCAL AND PERSONAL ACTS.

- xciii. An Act for incorporating the *Salisbury Railway and Market House Company*; for authorising them to make and maintain a Railway and a Market House at *Salisbury*; and for other Purposes.
- xciv. An Act for making a Railway from the *Stockfield Station of the Newcastle-upon-Tyne and Carlisle Railway* to the *Stockton and Darlington Railway*, near *Conside Ironworks*, with a Branch to the *Derwent Iron Company's Railway*; and for other Purposes.
- xcv. An Act to enable the *Swansea Vale Railway Company* to make Extension and Branch Railways, and for other Purposes.
- x cvi. An Act to repeal the Act for more effectually making, straightening, repairing, and improving the Roads from near the Town of *Lewes* to *Polegate* in the Parish of *Hailsham*, and from thence to *Eastbourne*, and to *Polegate* to *Hailsham Common*, in the County of *Sussex*, and to make other Provisions in lieu thereof.
- xcvii. An Act for making and maintaining a Turnpike Road from *Conway* to *Llandudno* in the County of *Carnarvon*, and for other Purposes.
- xcviii. An Act for making a Railway from *Dunfermline* to *Killairnie* with a Branch to *Kingsseat* in the County of *Fife*, to be called "The *West of Fife Mineral Railway*."
- xcix. An Act for making a Railway from the Town of *Maybole* to the Town and Harbour of *Girvan*, to be called "The *Maybole and Girvan Railway*."
- c. An Act for making a Railway from the *South Wales Railway* near *Brimspill* in the Parish of *Aure* to *Howbeach Valley* in the *Forest of Dean*, with Branches; and for other Purposes.
- ci. An Act for incorporating the *Ceylon Railway Company*, and for other Purposes connected therewith.
- cii. An Act for enabling the *Somerset Central Railway Company* to construct a Railway from *Glastonbury* to near *Bruton*, and for other Purposes.
- ciii. An Act for more effectually repairing the Road leading from *Wem* to the Lime Rocks at *Bronygarth* in the County of *Salop*, and for making several Lines of Road connected with the same in the Counties of *Salop* and *Denbigh*.
- civ. An Act for continuing the Term and amending and extending the Provisions of the Act relating to the *Cleobury North and Ditton Priors District* and the *Cleobury Mortimer District* of Turnpike Roads, in the Counties of *Salop* and *Worcester*.
- cv. An Act for authorising a Lease of the *Wimbledon and Croydon Railway*, and for authorising the Purchase of additional Lands and the raising of additional Capital by the *Wimbledon and Croydon Railway Company*; and for other Purposes.
- cvi. An Act to enable the *Stirling and Dunfermline Railway Company* to create additional Shares in their Undertaking; and for other Purposes.
- c vii. An Act to amend the Constitution of "The *London Printing and Publishing Company, Limited*."
- c viii. An Act to amend certain Acts relating to the *Luton District Turnpike Road*, and make other Provisions in lieu thereof.
- cix. An Act to extend the Times limited for certain Purposes by the Acts relating to the *Metropolitan Railway*, and to enable the *Metropolitan Railway Company* to form a Junction with the *Great Northern Railway*, and for other Purposes.
- cx. An Act for making a Railway from the Town of *Nairn* to the Town of *Keith*.
- cxi. An Act for authorising Deviations from the authorised Line of the *Severn Valley Railway*, and for making further Provision with respect to Shares in the Capital of the *Severn Valley Railway Company*, and for facilitating the Completion of their Undertaking, and for other Purposes.
- cxii. An Act for establishing and maintaining a Ferry and Floating Bridge between *Stokes Bay* and *Ryde* in the County of *Southampton*, with Landing Places and Approaches thereto.
- cxiii. An Act for making a Railway from the *Scottish Central Railway* at *Dunblane* by *Doune* to *Callander*, to be called "The *Dunblane, Doune, and Callander Railway*."
- cxiv. An Act for making a Railway from *Castle Douglas*, by *Dalbeattie* to the *Glasgow and South-western Railway* at *Dumfries*, and for other Purposes.
- cxv. An Act for granting further Powers for lighting, cleansing, sewerage, and improving the Borough of *Leeds*, and for other Purposes.
- cxvi. An Act for regulating the Rates and Charges to be taken by the *Grand Junction Waterworks Company* for a Supply of Water to Parts of the Parish of *Paddington*, and for other Purposes.
- cxvii. An Act to grant further Powers to the *Crystal Palace Company* for the raising of Capital, for the internal Management of their Undertaking, and with respect to *Dulwich Wood*.
- cxviii. An Act to consolidate the Powers of the *Gloucester Gaslight Company*, to enable them to raise Money, and for other Purposes.
- cxix. An Act for the making of a Dock and Works at *Thames Haven*, and for other Purposes.
- cxx. An Act for the making by the *London and South-western Railway Company* of a Railway from *Yeovil* to *Exeter*, to be called "The *Exeter Extension Railway*;" and for other Purposes.
- cxxi. An Act to amend the Acts relating to the *East Indian Railway Company*.
- cxxii. An Act for making a Railway from the *Taff Vale Railway* to the River *Ely* in the County of *Glamorgan*; for converting Part of the said River into a tidal Harbour, and regulating the Access thereto; for authorising Arrangements with the *Taff Vale Railway Company*; and for other Purposes.
- cxxiii. An Act for altering the *Crewe and Shrewsbury Line* of the *London and North-western Railway*, for making Provision with respect to Station Accommodation at *Shrewsbury*, and for other Purposes.
- cxxiv. An Act to enable the *Londonderry and Enniskillen Railway Company* to create Preference Shares with Priority of Dividend over all the existing Shares of the Company; and for other Purposes.
- cxxv. An Act for making a Railway from the authorised Line of the *West End of London and Crystal Palace Railway* (Extension to

PRIVATE ACTS.

- Bromley and Farnborough*) at *Shortlands* in the Parish of *Beckenham* in the County of *Kent* to *St. Mary Cray* in the same County.
- cxixvi. An Act to enable the *Oxford, Worcester, and Wolverhampton* Railway Company to raise further Money for the Completion of the Broad Gauge, and for other Purposes, and to convert their Mortgage Debt into Stock.
- cxixvii. An Act to repeal an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for more effectually amending and keeping in repair the Roads from the Town of Uttoxeter to the Town of Newcastle-under-Lyme* in the County of *Stafford*, so far as relates to the *Uttoxeter District of the said Roads*, and for making certain new Pieces of Road to communicate therewith, all in the said County of *Stafford*, and to confer larger and additional Powers and Provisions in lieu of those therein contained; and for other Purposes.
- cxixviii. An Act to amend *An Act for draining, embanking, and improving the Fen Lands and Low Grounds within the Parishes, Hamlets, Townships, or Places of Bardney, Southrow, otherwise Southry, Tupholme, Bucknall, Horsington, Stixwold Edlington, and Thimbleby*, in the County of *Lincoln*, and to confer further Powers on the Commissioners under such Act; and for other Purposes.
- cxixix. An Act to revive and extend certain of the Powers of the *Waveney Valley* Railway Company with relation to their Railway.
- cxixxx. An Act for authorizing the Abandonment of Parts of the authorized Lines of the *Westminster Terminus* Railway, and the making of other Lines of Railway in lieu thereof, and for reducing the Capital of the *Westminster Terminus* Railway Company; and for other Purposes.
- cxixxxi. An Act to render more effectual the Powers of raising Money given by "The *Severn Navigation Act, 1853*, and for other Purposes.
- cxixxxii. An Act for making a Railway from the *Oswestry and Newtown* Railway in the Parish of *Buttington* in the County of *Montgomery* to *Shrewsbury*, with a Branch thereof to *Minsterley* in the County of *Salop*, and for other Purposes.
- cxixxxiii. An Act for extending the Operations of the Society for the Discharge and Relief of Persons imprisoned for small Debts throughout *England and Wales*.
- cxixxxiv. An Act to unite and amalgamate the Undertaking of the *Scottish Midland Junction* Railway Company with the Undertaking of the *Aberdeen* Railway Company, to be thenceforth called "The *Scottish North-eastern* Railway Company," and to regulate the Management of and confer additional Powers on the United Company, and for other Purposes.
- cxixxxv. An Act for making a Railway from the *Southampton and Dorchester* Railway to *Blandford Saint Mary* in the County of *Dorset*, and for other Purposes.
- cxixxxvi. An Act for making a Railway from the *Scottish Midland Junction* Railway near the *Dunkeld Road Bridge* to *Methuen* in the County of *Perth*.
- cxixxxvii. An Act to extend the Time limited for completing the *Oxford, Worcester, and Wolverhampton* Railway, and for adapting the same to the Broad Gauge, and for other Purposes.
- cxixxxviii. An Act to provide for the Arrangement of the Financial Affairs of the City of *Perth*, for the Maintenance of the Port and Harbour, and for other Purposes therewith connected.
- cxixxxix. An Act to enable the *Scottish Central* Railway Company to make Branch Railways to the Town of *Denny* in the County of *Stirling*.

PRIVATE ACTS,

PRINTED BY THE QUEEN'S PRINTER, AND WHEREOF THE PRINTED
COPIES MAY BE GIVEN IN EVIDENCE.

1. **A**N Act to amend an Act made and passed in the Tenth Year of the Reign of Her present Majesty, intituled *An Act to divide the Parish and Rectory of Doddington otherwise Dornington into Three separate and distinct Parishes and Rectories*, and to endow the same out of the Revenues of that Rectory, and to make Provisions for the further Division of such Rectories and Parishes, and for other Purposes connected therewith.
2. An Act for continuing in force, during the Minority of *Mrs. Clara Clarke Thornhill*, the Wife of *William Capel Clarke Thornhill* of *Swakeleys* in the County of *Middlesex*, Esquire, the Powers conferred by "*Thornhill's Estate Act, 1852*," and "*Thornhill's Estate Act, 1854*," and for other Purposes.
3. An Act for authorizing the Trustees under the Will of *William Wainman* Esquire, deceased, to grant Leases, and to make Sales, Exchanges, and Partition of the Real Estates devised by or subject to the Trusts of the same Will; and for other Purposes.
4. An Act for giving effect to a Compromise relating to the Estate of the Most Noble *George* Fourth Duke of *Marlborough*, deceased, and with a view thereto, for extinguishing the demisable Quality of certain Copyhold Hereditaments, Parcels of the Manors comprised in the Estates and Hereditaments settled on the Dukedom, and for creating a Term of Years in a Portion of the said Copyhold Hereditaments.

PRIVATE ACTS.

5. An Act to authorize Sir *Lionel Milborne Swinnerton* Baronet and his Issue to assume and bear the Surname of *Pilkington* jointly with the Surnames of *Milborne* and *Swinnerton*, and to be called by the Surnames of *Milborne Swinnerton Pilkington*.
6. An Act for vesting in Trustees the undivided Parts, subject to the Limitations of the Wills of *Benjamin Ingham* deceased and *Joshua Ingham* deceased respectively, of Estates in the West Riding of the County of *York*, and for authorising Partitions of Parts of those Estates, and for authorizing Leases and Sales of Parts of those Estates, and for other Purposes.
7. An Act to authorize the granting of Leases of Parts of the Freehold, Copyhold, and Leasehold Estates of the late *Leonard Lewen Wheatley* Esquire, situate in the several Parishes of *Saint Lawrence* and *Saint Peter the Apostle* in the *Isle of Thanet*, of *Meopham near Gravesend*, and *Ash next Sandwich*, and elsewhere in the County of *Kent*, and within the Manor of *Stepney* otherwise *Stebunheath Ratcliffe* in the Parish of *Saint Dunstan Stepney*, and elsewhere in the County of *Middlesex*.
8. An Act to enable the Trustees of the Will of *Matthew Butterwick* Esquire to sell the Rectory and Tithes of *Thirsk*, held by Lease for Lives under the Archbishop of *York*, and certain Policies of Assurance, and for the Investment of the Proceeds, and for other Purposes : of which the Short Title is "*Butterwick's Estate Act, 1856.*"
9. An Act for enabling Leases for Mining, Agricultural, and Building Purposes to be made of the Estates of *John Walmesley* Esquire, deceased, and Sales of Portions thereof, and for other Purposes ; the Short Title of which is "*Walmesley's Estate Act, 1856.*"
10. An Act for enabling Leases and Sales to be made of Lands and Hereditaments in the Counties of *Northumberland* and *Durham* belonging to the Families of *Thoroton* and *Croft*, and for other Purposes ; called "*The Thoroton and Croft Estate Act, 1856.*"
11. An Act for vesting in Trustees the Estates of the late *Sarah Reddall*, deceased, situate in the County *Northampton*, known as the *Dalington Estate*, for the Purpose of enabling Leases, Sales, Exchanges, and Partitions to be made of the same ; and for other Purposes.
12. An Act to enable the Trustees of the Will of *John Bell*, Esquire, to sell a Leasehold Estate for Lives in the County of *York*, known as "*Wilton Grange*," held of the Archbishop of *York*, and for the Re-investment of the Proceeds in the Purchase of Real Estates of Inheritance ; of which the Short Title is "*Bell's Estate Act, 1856.*"
13. An Act to amend and enlarge the Powers of an Act passed in the Twelfth and Thirteenth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for authorising the Trustees of the late Thomas Gordon to sell his Estates of Cairness and others in the County of Aberdeen, and to apply the Price thereof in Payment of the Debts and Burdens affecting the same, and for laying out the Residue of the Price in the Purchase of other Lands to be entailed, in Terms of the Trust Deed of Settlement by the said Thomas Gordon ; and for other Purposes.*
14. An Act for enabling Partitions, Sales, Exchanges, and Leases to be made of certain Parts of the Estates devised by the Will of Sir *John William Head Brydges*, deceased, and for other Purposes.

PRIVATE ACTS,

NOT PRINTED.

15. An Act to enable *George Skipton*, Clerk, to exercise his Office of Priest, and to hold any Benefice or Preferment in the United Church of *England* and *Ireland*.
16. An Act to dissolve the Marriage of *John Talbot*, Esquire, with *Marianne* his now Wife, and to enable him to marry again ; and for other Purposes.
17. An Act to dissolve the Marriage of *Madgwick Spicer Davidson*, Gentleman, with *Katherine Anne* his now Wife, and to enable the said *Madgwick Spicer Davidson* to marry again ; and for other Purposes therein mentioned.

INDEX

TO

HANSARD'S PARLIAMENTARY DEBATES,

IN THE FOURTH SESSION OF

THE SIXTEENTH PARLIAMENT OF THE UNITED KINGDOM,

19° & 20° VICTORIA,

1856.

EXPLANATION OF THE ABBREVIATIONS.

1R. 2R. 3R. First, Second, or Third Reading.—*Amend.*, Amendment.—*Res.*, Resolution.—*Com.*, Committee.—*Re-Com.*, Re-committal.—*Rep.*, Report.—*Adj.*, Adjourned.—*cl.*, Clause.—*add. cl.*, Additional Clause.—*neg.*, Negatived.—*L.*, Lords.—*c.*, Commons.—*m.q.*, Main Question.—*o. q.*, Original Question.—*o. m.*, Original Motion.—*p. q.*, Previous Question.—*r. p.*, Report Progress.—*A.*, Ayes.—*N.*, Noes.—*M.*, Majority.—*1st Div.*, *2nd Div.*, First or Second Division.

When in the Text or in the Index a Speech is marked thus *, it indicates that the Speech is reprinted from a Pamphlet or some authorised Report.

When in this Index a * is added to the Reading of a Bill, it indicates that no Debate took place upon that stage of the measure.

ABERDEEN, Earl of
Appellate Jurisdiction, Com. [142] 899, 909
Divorce and Matrimonial Causes, 2R. [142] 424; Rep. [143] 249
Marriage Law Amending, Com. [142] 325
Marriage Law, English and Scotch, [141] 1383
Peace, Treaty of, Address moved, [141] 2018
Peerages for Life, Com. [140] 605, 611
St. James's Park, [141] 766
Slave Trade—Brazil, Address moved, [143] 1078

Aberdeen Colleges Bill,
c. 1R.* [143] 1424

Aberdeen, University of,
c. Question (Mr. Thompson), [142] 1494; (Mr. H. Baillie), 1679

ABINGDON, Earl of
Address in Answer to the Speech, [140] 12

ABINGER, Lord
Agricultural Statistics, 3R. [141] 632
Peerages for Life, Com. [140] 905, 906

Abjuration, Oath of, Bill,
c. Question (Sir F. Thesiger), [140] 1220
Leave, 1288; 1R.* 1289;
2R. [141] 703; Amend. (Sir F. Thesiger), 731, [o. q. A. 230, N. 195, M. 35] 756;

VOL. CXLIII. [THIRD SERIES.] [cont.]

Abjuration, Oath of, Bill—cont.

Question (Sir F. Thesiger), 1909;
Com. cl. 1, Amend. (Sir F. Thesiger), [142] 595; Amend. neg. 599;
cl. 2, Amend. (Lord J. Russell), 599;
add. cl. (Lord J. Russell), 605;
3R. 1165, Amend. (Sir F. Thesiger), 1182,
[o. q. A. 159, N. 110, M. 49] 1197
l. 1R.* [142] 1219;
2R. 1772; Amend. (Earl Stanhope), 1796,
[o. q. Content 78, Not Content 110, M. 32] 1805

Abjuration, Oath of, Amendment Bill,
l. 1R. [142] 1667;
2R. 1896;
Com. 2050; Amend. (Lord Lyndhurst), 2063;
Amend. neg. 2064;
Bill withdrawn, [143] 4

Accessories, &c., Offences of a Public Nature, Bill,
l. 1R. [143] 1089

ACLAND, Sir T. D., *Devonshire, N.*
Army Estimates, [142] 1719
Dwellings for Labouring Classes (Ireland), Com.
cl. 1, [141] 1793
Supply—St. James's Park, [142] 1569

ADAIR, Colonel R. A. S., *Cambridge,*
Army Estimates, [140] 1755; [141] 194

3 D

[cont.]

ADAIR, Colonel R. A. S., *continued*.

Army, Sale of Commissions in the, Com. moved for, [140] 1839
Cambridge University and Town, 2R. [140] 832

ADDERLEY, Mr. C. B., *Staffordshire, N.*

Army Estimates, [142] 1554
Bands in the Parks on Sundays, [141] 1917
Education, National, [140] 1987; Com. [141] 799
Justices of Peace Qualification, Com. cl. 7, [141] 1107
Police (Counties and Boroughs), Com. cl. 2, [141] 1584; cl. 5, Amend. 1930
Prisons, Inspection of, [140] 382
Reformatory Schools, Com. add. cl. [142] 567, 568, 571
Reformatory Schools (Scotland), 2R. [141] 13
Supply—Royal Palaces and Public Buildings, [141] 224;—Emigration, 1011
Transportation, Com. moved for, [141] 418, 419, 420
Turkish Contingent—English Officers, [142] 555

Address in Answer to the Speech.

l. (Earl of Gosford), 5; Her Majesty's Answer, [140] 89
c. (Hon. G. Byng), [140] 50; Report, 100; Her Majesty's Answer, 181

ADVOCATE, The LORD (Rt. Hon. J. Moncreiff), *Leith, &c.*

Aberdeen, University of, [142] 1494, 1679
Abjuration, Oath of, 2R. [141] 731
Army Estimates, [142] 1726
Bankruptcy (Scotland), 2R. [141] 22
Billeting (Scotland), [141] 577
Commissioners of Supply (Scotland), 2R. [141] 1
Education (Scotland), Leave [141] 663
Housebreaking in Scotland, [143] 118
Judgments Execution, Com. [143] 208, 538, 1002
Kars, Fall of, Resolution, [141] 1684
Marriage Law Amending, 2R. [142] 2160; Rep. [143] 998
Municipal Reform (Scotland), 2R. [141] 20, 21
Parochial Schools (Scotland), 2R. [141] 1586; [142] 632, 894, 896; Com. cl. 9, 1891; Lords Amends. [143] 1172
Partnerships Amendment (No. 2), Com. [143] 859
Poor Law Amendment (Scotland), 3R. [143] 810
Reformatory Schools (Scotland), 2R. [141] 15, 16, 17
Scotch Universities, [140] 2043
Supply—Orange River Territory, [142] 1052;—Mr. Boyle's Compensation, 1142
Voters, Registration of, (Scotland), 2R. [142] 400; Com. 1680; cl. 1, 1683; cl. 55, 1684

Adowsons Bill,

c. 1R.* [140] 1790;
2R. [142] 466; 3R.* [143] 113
l. 1R.* [143] 229;
2R. 491; 3R.* 619
Royal Assent, [143] 710

Africa, West Coast of, Civil Establishments—Supply,
c. [141] 1009

Aggravated Assaults Bill,

c. Leave, [141] 24; 1R.* 28;
2R. [142] 165, [A. 97, N. 135, M. 39] 177

AGNEW, Sir A., *Wigtonshire*

Billeting (Scotland), [141] 568; [143] 1219
Dissenters' Marriages, Com. cl. 4, [141] 922
Education (Scotland), Leave, [141] 673

Agricultural Statistics Bill,

l. 1R.* [140] 1770;
2R. 2207;
[141] Com. 445;
cl. 1, Amend. (Earl of Derby), 462, [Content 18, Not Content 13, M. 5] 463;
cl. 2, 463;
cl. 7, 464;
cl. 12, 465;
3R. 629;
c. 1R.* [141] 870;
2R. Adj. moved (Mr. Bentinck), [142] 1727;
Adj. Debate, 1770; Bill withdrawn, 1771

Agricultural Statistics—Supply,

c. [142] 1109

ALBEMARLE, Earl of

Currency, Indian, [141] 1248
Dalhousie, Marquess of, Pension to, Correspondence moved for, [142] 211, 215
India, Government of, Com. moved for, [141] 313
India, Legislative Council of, [143] 306
India, Torture in, Returns moved for, [140] 1503; Address moved, [141] 377, 383
Indian Accounts, Returns moved for, [142] 621, 625, 631
*Madras, Torture in, Res. [141] 964, 999
Maritime Law, International, [142] 513
Marriage Law Amendment, 2R. [141] 1511
Nawab of Surat Treaty, 2R. [143] 393
Piracy in the Eastern Archipelago, [140] 913

ALCOCK, Mr. T., *Surrey, E.*

Budget, The—Financial Statement, Res. [142] 355
Education, National, [140] 2009
Fire Insurances, Com. [142] 395
Supply—Education, Public, [141] 525; [142] 1370

Aldershot Camp Bill,

c. 1R.* [140] 1218; 2R.* [141] 149;
Question (Mr. Macartney), [141] 386;
3R.* [142] 1326
l. 1R.* [142] 1395; 2R.* 2048; 3R.* [143] 710
Royal Assent, [143] 1064

Aldershot, Constabulary Police at—Supply,

c. [142] 1030, [A. 131, N. 14, M. 117] 1034

Aldershot, Review at,

c. Notice (Viscount Palmerston), [143] 863;
Question (Mr. G. Vernon), 1032

Alien Act, The—Colonel Türr,

c. Question (Mr. T. Duncombe), [140] 90

ANDERSON, Sir J., *Stirling, &c.*

Hospitals (Dublin), Com. *cl.* 9, [143] 972

Municipal Reform (Scotland), 2R. [141] 21

Annuities Bill,

c. 1R.* [140] 1406 ;

2R. 1444 ; 3R.* 1699

l. 1R.* [140] 1770 ; 2R.* 1930 ; 3R.* 1930

Royal Assent, [140] 2033

Annuities (No. 2) Bill

c. 1R.* [142] 550 ; 2R.* 588 ; 3R.* 697

l. 1R.* [142] 668 ; 2R.* 776 ; 3R.* 850

Royal Assent, [142] 949

Annuities Redemption,

c. Com. [142] 1151

Annuities Redemption Bill,

c. 1R.* [142] 1227 ; 2R.* 1326 ; 3R.* 1493

l. 1R.* [142] 1570 ; 2R.* 1771 ;

3R. [143] 11, 229

Royal Assent, [143] 383

Appellate Jurisdiction of the House of Lords,

l. Com. moved for (Earl of Derby), [140] 1448 ; Amend. (Earl Granville), 1465

c. Observations (Mr. Bowyer), [140] 2045

Appellate Jurisdiction (House of Lords) Bill,

142] l. 1R.* 621 ;

2R.* 780 ;

Com. 899 ;

cl. 1, 921 ;

Rep. 950 ;

3R. 1059 ; Amend. (Earl of Clancarty), 1063, [*o. q.* Content 44, Not Content 4, M. 40] 1081 ;

.. That the Bill do pass, 1081 ; Amend. (Lord St. Leonards), 1083 ; Amend. neg. 1084

Protests, 1084, 1085

142] c. 1R.* 1161 ;

Question (Mr. R. Currie), 2075 ; Observations (Lord J. Russell), 2096 ;

143] 2R. 407 ; Amend. Mr. Bowyer), 428, [*o. q.* A. 191, N. 142, M. 49] 485 ;

Observations (Lord J. Russell), 509 ;

Com. Res. (Chancellor of the Exchequer), 539 ;

Rep. 553 ;

Com. Amend. (Mr. R. Currie), 583, [*o. q.* A. 133, N. 155, M. 22] 613

ARCHDALL, Captain M. E., *Fermanagh Co.*
"Europa," The, Loss of the, [143] 1114**Archer, Miss, Assault on,**

c. Question (Mr. Peacock), [142] 327

Arctic Expeditions,

l. Question (Lord Wrottesley), [143] 1008

c. Question (Adm. Walcott), [140] 451 ; (Mr. W. Brown), [143] 401

ARGYLL, Duke of (Postmaster General)

Appellate Jurisdiction, Com. [142] 911

Australia, Postal Communication with, [141] 550, 1689

Bank Charter Act, Commission moved for, [141] 561, 562, 563

Coorg, the Rajah of, [143] 1066

Divorce and Matrimonial Causes, Com. [142] 1983

East India Company—Voluntary Payments, [143] 7

Huntingdon, Postmaster at, [141] 1046

India—Case of Pertaub Singh and Bisheu Singh, [143] 623

India—Land Tax, Returns moved for, [143] 1422

India, Torture in, Address moved, [141] 382, 383, 1145

Indian Finance, Papers moved for, [141] 636, 637

Joint-Stock Companies, 2R. [142] 1485 ; Com. 1892

Limited Liability, Returns moved for, [141] 136

Madras, Torture in, Res. Amend. [141] 975

Mail Service, Irish, [141] 1591

Maritime Law, International, [142] 516, 527

Nawab of Surat Treaty, 2R. [143] 393, 384, 388

Oude Treaty, [141] 775, 776, 777

Parochial Schools (Scotland), Com. *cl.* 12, [143] 730 ; *cl.* 14, 733 ; 3R. 1025, 1026 ; Commons Amends. 1352

Peace, Treaty of, Address moved, [141] 2027

Peerages for Life, [140] 375 ; Com. 1188

Portraits, National, Gallery of, [140] 1786

Reformatory and Industrial Schools, Com. [142] 1324

Steam Communication between Holyhead and Kingstown, [143] 1008

Ticket-of-Leave System, Returns moved for, [140] 1404 ; Address moved, [141] 1147, 1174 ; [142] 255, 257

Armistice, The—Cargoes to Russian Ports,

c. Question (Mr. J. C. Ewart), [140] 717

Army,

Administration of, l. Papers moved for (Earl of Derby), [140] 1023 ; Motion withdrawn, 1048

Barrack Accommodation, c. Question (Col. Lindsay) [140] 2193

Billeting (Scotland), c. Motion (Mr. Cowan) [141] 566, [A. 139, N. 116, M. 23], 585 ; Question (Sir A. Agnew) [143] 1219

Cavalry and Artillery Horses in the Crimea, l. Question (Earl of Malmesbury), [141] 772

Chaplains, c. Question (Sir De L. Evans), [141] 878

Command in Chief, l. Question (Duke of Somerset) [143] 812

Commissions, Candidates for, c. Question (Mr. J. A. Smith), [142] 258

Commissions of Deceased Officers, c. Address moved (Mr. Grogan), [142] 1513 ; Motion withdrawn, 1518 ; Address moved (Col. B. Knox), 1529, [A. 39, N. 81, M. 42] 1533

Commissions, Sale of, c. Question (Mr. Bland), [140] 717 ; Com. moved for (Sir De L. Evans), 1791 ; Motion withdrawn, 1850

Army—continued.

Commissions without Purchase, c. Question (Mr. Bland), [140] 717
Disbanding of the, c. Question (Lord R. Grosvenor), [141] 2036
Dowbiggin, Major, Case of, c. Question (Sir De L. Evans), [140] 2109
Education of Officers, c. Statement (Mr. S. Herbert), [142] 980
Engineers, Promotion in the, c. Question (Capt. L. Vernon), [143] 271;—*in the Crimea, Observations* (Capt. L. Vernon), 645
Enlistment, Foreign (Prussia), c. Question (Mr. Baillie), [140] 383
Estimates, c. [140] 1221, 1250, 1726, 2054; [141] 185; Amend. (Mr. Layard), 195, [A. 9, N. 82, M. 73] 200; Amend. (Mr. Spooner), 204, [A. 15, N. 89, M. 74] 208; [142] 1533, 1691; Amend. (Mr. E. Ellice), 1718, [A. 69, N. 160, M. 91] 1726
Field Allowances, c. Question (Col. Dunne), [141] 1926
Foreign Troops in the English Service, c. Question (Mr. Otway), [141] 565; (Col. Dunne), 1048
Good-conduct Pay of Sergeants, c. Question (Mr. Pellatt), [143] 1031
Guards, Entry of the, into London, c. Question (Mr. Noel), [142] 2073; (Sir J. Shelley), [143] 265
Guards' Memorial, The, c. Question (Visct. Goderich), [140] 90; (Major Sibthorp), [142] 1228
Guards, Reduction of the, c. Question, (Sir J. Fergusson), [143] 862
Harness, Col., Case of, c. Question (Capt. L. Vernon), [141] 277; Papers moved for, 658; Motion withdrawn, 663
Indian Army, c. Question (Col. North), [143] 1425
Land Transport Corps, c. Question (Mr. M. Chambers), [143] 1032
Lieutenant Colonels in the, c. Address moved (Col. Lindsay), [143] 524; House counted out, *ib.*
Medals for the Army in the East, c. Question (Major Sibthorp), [141] 639; (Col. Lindsay), 1048; (Col. North), [143] 1496
Medical Department, c. Question (Mr. Stafford), [141] 169
Military Rewards, c. Question (Mr. O. Stanley), [141] 1530
Prize Money, c. Question (Col. Dunne), [143] 269
Reduction of Officers, c. Question (Lord Hotham), [142] 1735; (Sir J. Graham), [143] 734
Regulations, c. Question (Sir S. Northcote), [142] 1407
Sandhurst Military College, c. Question (Col. North), [142] 588; *Education at, Question* (Mr. Rich), [143] 268
Scientific Corps, c. Observations (Capt. L. Vernon), [141] 1444
Sebastopol Clasp, c. Question (Sir J. Pakington), [141] 1182; (Mr. H. Baillie), 1325
Staff, The, c. Question (Capt. L. Vernon), [141] 1394; Res. (Capt. L. Vernon), [142] 776; House counted out, *ib.*; Res. (Capt. L. Vernon), 1687; Motion neg. 1691; Question (Col. Lindsay), 1992, [143] 678; Observations (Col. North), [142] 2084—see *Militia, The*

Army—continued.

Surgeons, Acting Assistant Army, c. Question (Major Reed), [143] 1037
Vote of Thanks, L. (Lord Panmure), [142] 162
c. (Visct. Palmerston), [142] 216
West Indies, Troops in the, c. Question (Mr. Scholefield), [143] 320—see *Aldershot Camp—Crimea, The—Crimean Commission—Foreign Legion, The—German Legion, The—Italian Legion The—Militia—Russia, War with*

Army Works Corps.

c. Question (Sir J. Shelley), [143] 1495

Ascension Day, Observance of.

c. Question (Sir J. Pakington), [141] 1706; Motion (Mr. Hayter), 1786

Assessed Taxes Acts.

c. Com. Res. (Chancellor of the Exchequer), [143] 539

Assistant Judge—Middlesex Sessions.

c. Question (Lord Hotham), [142] 268

ATHERTON, Mr. W., Durham City

Charitable Uses, Com. cl. 2, [140] 973; 3R. 1425
Ecclesiastical Courts Jurisdiction, Leave, [140] 401
Indian Law Commission, [141] 1394
Joint-Stock Companies, Com. cl. 20, [142] 642; *cl. 37*, 644
Scientific and Literary Societies, Com. [143] 228
Wills and Administration, Com. [143] 299

ATTORNEY GENERAL, The (Sir A. E. COCKBURN), Southampton

Appellate Jurisdiction, 2R., [143] 407
Church Rates Abolition (No. 2), 2R. [140] 1910
County Courts' Acts Amendment Com. [143] 690; *cl. 5*, 693; *cl. 20*, 694, 695, 696; *cl. 21*, 696; 3R. *add. cl.* 1202, 1203, 1205, 1206
Criminal Appropriation of Trust Property, [143] 1113
Drafts on Bankers, 2R. [141] 440
Fire Insurances, Com. cl. 2, [142] 395, 397
Hinds, Miss, Murder of, [142] 283
Judicial Bench (Ireland), Returns moved for, [140] 790, 793, 794
Kars, Fall of, Res. [141] 1658, 1680
Married Women's Reversionary Interest, [141] 442, 443
Married Women, Rights of, [142] 1277
Metropolis Local Management Act Amendment, 2R. [140] 1859, 2039; *Com.* 2094; [141] 473
Offences, Trial of, Com. cl. [140] 2195, 2199
Partnerships Amendment (No. 2), Com. cl. 3, [143] 370
Sadler, James, Expulsion of, [143] 1404
Statute Law, Consolidation of the, Leave, [140] 743
Statutes at Large, [140] 993, 999
Supply—Charity Commission, [142] 862, 863, 864
Trust Property, Criminal Appropriation of, Leave, [141] 432, 433, 434

ATTORNEY GENERAL, The—continued.

United States, Relation with the, [143] 40, 48

Vestries, Metropolitan, [141] 42

Wills and Administration, 2R. [142] 2015

Audit of Public Accounts—Supply,

c. [141] 255; Observations (Mr. Bowyer), 691

Australia, Steam Postal Communication with,

l. Observations (Earl of Hardwicke), [141] 547; [143] 1478; (Earl of Ellenborough [141] 1688

c. Question (Mr. Baxter), [140] 716; (Sir J. Pakington), [141] 278; [142] 1987; (Mr. E. Denison), [141] 1179; (Mr. Macartney), [142] 552, 1230; (Lord Naas), 1496; (Mr. T. Chambers), 1685; (Mr. H. G. Langton), [143] 1425

Australian Expedition—Supply,

c. [142] 1050

BAILLIE, Mr. H. J., Inverness-shire

Aberdeen, University of, [142] 1679

Bank Charter Act, [140] 980

China Seas, Operations in the, [140] 453, 718

Enlistment, Foreign (Prussia), [140] 383

Estimates, Appropriation of the, [141] 181

Monetary System, Com. moved for, [140] 1508

Navy Estimates, [140] 555, 574, 575

Sandhurst, Education at, [143] 272

Sebastopol Clasp, [141] 1325

Supply—Royal Palaces and Public Buildings, [141] 226;—Royal Parks, Pleasure Grounds, &c. 237, 239;—New Houses of Parliament, 240

United States—The Enlistment, [141] 999, 1001;—Relations with the, [142] 1163, 1404, 1405, 1660; [143] 82, 98, 266

Voters, Registration of, (Scotland), Com. [142] 1682

War Office, The New, [141] 466

BAINES, Rt. Hon. M. T. (Chancellor of the Duchy of Lancaster), Leeds

Bleaching, &c. Works (No. 2), 2R. [143] 221

Charities, 2R. [143] 965; Com. cl. 1, 1060, 1061

Health, Public, Com. [143] 501

Ilinds, Miss, Murder of, [142] 286

Judgments Execution, Com. [143] 208

Justices of the Peace Qualification, Com. cl. 7, [141] 1106, 1107; [142] 476, 477

Laws, Amendment of the, Res. [140] 640

Offences, Trial of, 2R. [140] 1768, 1769; Com. cl. 1, 2197

Pauper, Scotch and Irish, Removal, Leave, [141] 313

Police (Counties and Boroughs), Com. cl. 1, [141] 1576

Reformatory Schools, Com. add. cl. [142] 568

Session, Review of the, Returns moved for, [143] 1476

Shipping, Local Dues on, 2R. [140] 1381

Statute Law, Consolidation of the, Leave, [140] 753

Supply—Charity Commission, [142] 859;—Statute Law Commission, 867

Transportation, Com. moved for, [141] 421

BALL, Mr. E., Cambridgeshire

Agricultural Statistics, 2R. [142] 1727

Army Estimates, [142] 1700

British Museum—Sunday Opening, [140] 1113

Budget, The—Financial Statement, Res. [142] 358

Church Rates Abolition (No. 1), Leave, [140] 257

County Courts Acts Amendment, Com. [143] 689

Dissenters' Marriages, Com. cl. 4, [142] 942, 945

Education, National, Com. [141] 926

Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1059

Fire Insurances, 2R. [141] 1380

German Legion, The, [143] 1110

Medical Profession, Com. [141] 351

Partnership Amendment (No. 2), Com. cl. 3, [143] 367

Railway Legislation, [140] 1953

Supply—Education, [142] 1374

Ballot, The.

c. Leave, [142] 430, [A. 111, N. 151, M. 40] 450

Baltic. Operations in the,

c. Com. moved for, (Sir C. Napier), [141] 48; Motion withdrawn, 119

Bands in the Parks on Sundays,

c. Question (Marquess of Blandford), [141] 1702; (Lord R. Grosvenor), 1911; (Mr. T. Chambers, [142] 259; (Mr. Otway), 325;—see *Scotch Members and the Government*

BANGOR, Bishop of

Church Discipline, 2R. [141] 1299

BANKES, Rt. Hon. G., Dorsetshire

Business, Public, [140] 2044

Justices of the Peace Qualification, 2R. [140] 1443

Officers of the House, [140] 836

Bank Charter Act,

l. Commission moved for (Earl of Eglinton), [141] 551; Motion withdrawn, 564

c. Question (Mr. Glyn), [140] 222; (Mr. H. Baillie), 980; Observations (Mr. Malins), [142] 276; Question (Mr. Tite), [143] 1040

Bank Frauds,

c. Question (Mr. Roebuck), [143] 1034

Bank of England,

c. Question (Mr. Oliveira), [140] 1406

Bankers' Compositions Bill,

c. 1R.* [141] 384;

2R. 1044; 3R.* 1702

l. 1R.* [141] 1906; 2R.* [142] 310; 3R.* 481

Royal Assent, [142] 949

Bankruptcy (Scotland) Bill,

c. 1R.* [140] 1406;

2R. [141] 22; 3R.* 1324

l. 1R.* [141] 1587;

2R. [142] 253; 3R.* [143] 1

Royal Assent, [143] 1401

Bankruptcy and Insolvency (Ireland) Bill,

c. 1R.* [140] 1574;
2R. Amend. (Mr. Macartney), [142] 2157;
Amend. neg. 2158

BARING, Rt. Hon. Sir F. T., Portsmouth

Army Estimates, [141] 190
Audit of Public Accounts, [141] 698
Budget, The—Financial Statement, Res. [142]
372
Civil Service Superannuation, Leave, [140]
888; Com. [143] 1048
Coast Guard Service, 2R. [143] 856
Consolidated Fund Appropriation, Com. [143]
559; cl. 30, 563
Estimates, Appropriation of the, [141] 184
Moneys, Public, Com. moved for, [141] 1450,
1466
Naval Administration, Com. moved for, [140]
441
Navy Estimates, [140] 570, 599; [142] 1445,
1457
Pensions, Hereditary, [141] 1237, 1342
Perth and Melfort's, Earl of, Compensation,
Rep. [142] 1319
Police (Counties and Boroughs), 2R. [140]
692; Com. cl. 7, [141] 1934; cl. 10, 1938;
cl. 11, 1943; cl. 6, [142] 294, 304
Shipping, Local Charges on, Appointment of
Com. [141] 682
Shipping, Local Dues on, 2R. [140] 1331
Supply—Superannuation Allowances, [141]
1033, 1037, 1039;—General Board of
Health, 1370, 1372;—Charity Commission,
[142] 862;—Bounties on Slaves, 1027;—
Constabulary Police at Aldershot, 1034;—
Embassy Houses Abroad, 1042, 1043, 1045;
—Treasury Commissariat Chest Transac-
tions, 1108;—Civil Contingencies, Amend.
1328, 1339
Ways and Means, [143] 406

BARING, Mr. H., Marlborough

Legion of Honour, [142] 2075

BARING, Mr. T., Huntingdon

Appropriation Act, [140] 2194
Joint-Stock Companies, Com. cl. 5, [142] 636,
637
Mercantile Law Amendment, 2R. [143] 809,
810
Partnership Amendment, 2R. [140] 477
Partnership, Amendment (No. 2), 2R. [142]
656; Com. [143] 344; 3R. cl. 3, 806
Supply—National Gallery, [141] 614, 616

BARNES, Mr. T., Bolton

Education, National, [145] 2005; Com. [141]
865, 959
Supply—Education (Ireland), [141] 536;—
Nonconforming, &c., Ministers (Ireland),
Amend. 1246, 1247;—Education, Amend.
[142] 1359

BARRINGTON, Viscount, Berkshire

German Legion, The, [143] 1110

BARROW, Mr. W. H., Nottinghamshire, S.

Aggravated Assaults, Leave, [141] 27; 2R.
[142] 174

BARROW, Mr. W. H.—continued.

Charities, 2R. [143] 966
Dwellings for Labouring Classes (Ireland),
Com. cl. 2, [141] 1794, 1795
Estates, Lease and Sales of Settled, Com. add.
cl. [143] 1053
Factories, 2R. [141] 444; Com. cl. 4, [141]
562
Health, Public, Com. [143] 502
Justices of the Peace Qualification, Com. d.
11, [142] 479
Medical Profession, Com. [141] 336, 340, 344,
351
Partnership Amendment (No. 2), Com. d. 3,
[143] 368
Police (Counties and Boroughs), Leave, [140]
244; 2R. 2184; Com. cl. 2, [141] 1553;
cl. 6, [142] 306; add. cl. 309
Poor Law Amendment, Leave, [141] 437
Poor Law Amendment (No. 2), 1R. [142] 615;
[143] 263
Reformatory Schools, Com. add. cl. [142] 567
Scientific and Literary Societies, Com. d. 2,
[143] 229
Supply—Royal Parks, Pleasure Grounds, &c.
[141] 232, 236, 239;—Public Education,
525;—Education (Ireland), 527, 543;—
General Board of Health, 1349, 1373,—St.
James's Park, [142] 1569
Vaccination, 2R. [141] 23, 276

BASS, Mr. M. T., Derby

Business of the House, [140] 253
County Courts Acts Amendment, Com. [141]
692; cl. 20, 695
Justices of the Peace Qualification, 2R. [140]
1442; Com. cl. 7, [141] 1112
Naval Administration, Com. moved for, [140]
440, 442
Partnership Amendment (No. 2), Com. [143]
342
Shipping, Local Charges on, Appointment of
Com. [141] 690
Supply, [140] 1670

BATH, Marquess of

Agricultural Statistics, Com. cl. 1, [141] 463;
cl. 7, 465
Burial-Ground, Blandford, [142] 974, 975
Business of the House, Res. [140] 912

Battersea Park—Supply,

c. [142] 1035

BAXTER, Mr. W. E., Montrose, &c.

Address in Answer to the Speech, [140] 61
Australia, Steam Communication with, [140]
716
Billeting (Scotland), [141] 569
Bleaching, &c., Works, Leave, [140] 1851
Bleaching, &c., Works, (No. 2), 2R. [143]
210
British Museum—Sunday Opening, [140] 1013
Education (Scotland), Leave, [141] 663
Fire Insurances, 2R. [141] 1375; Com. [142]
387; cl. 2, 395, 396
Municipal Reform (Scotland), 2R. [141] 21
Partnership Amendment (No. 2), 2R. [142]
658
United States, Relations with the, [143] 155

Bay Islands, Colony of.

c. Question (Mr. M. Gibson), [140] 2112

BEAMISH, Mr. F. B., *Cork*

Dublin Metropolitan Police, 2R. [143] 117
Lunatic Asylums (Ireland), (No. 2), Com. cl. 3, [142] 1762; cl. 4, 1765
Shipping, Local Charges on, Appointment of Com. [141] 868

Beatson, General,

c. Address moved (Col. Dunne), [143] 936; Motion neg. 939; Observations (Mr. Roebuck), 973; Motion (Mr. Roebuck), 1238, [A. 23, N. 71, M. 48] 1265; Question (Mr. Roebuck), 1489, 1497

BEAUCHAMP, Earl

Crimean Board of Inquiry, Address moved, [143] 1022

Belgium, Mission to.

c. Question (Mr. W. Williams), [143] 1386

BELL, Mr. J., *Guildford*

Postage Labels, Com. moved for, [142] 1296
Supply—British Museum, [141] 1364

BELLEW, Captain T. A., *Galway Co.*

Commissions of Deceased Officers, Address moved, [142] 1531
Eviotions (Ireland)—Case of, Mr. Pollok, Com. moved for, [141] 1712; [142] 706
Maynooth College, 2R. [142] 1960
Supply—Emigration, [141] 1013;—Consular Establishments, 1038;—General Board of Health, 1369
United States, Relations with the, [143] 40

BENTINCK, Mr. G. W. P., *Norfolk, W.*

Aggravated Assaults, 2R. [142] 173
Agricultural Statistics, 2R. adj. moved, [142] 1727, 1728, 1770
Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 969
County Courts Acts Amendment, Com. cl. 72 (E). [143] 706
Crimean Commission Report, [140] 1618
Fire Insurances, 2R. [141] 1378
Imperial Hotel Company, 2R. Amend. [140] 1699
Navy Estimates, [140] 556, 575; [142] 1429, 1446
Peace, Treaty of, Address moved, [142] 67
Police (Counties and Boroughs), 2R. (140) 696, 2160; Com. cl. 1, [141] 1579, 1583; cl. 7, 1933; cl. 6, [142] 296, 301; add. ci. 607, 610
Prussian Neutrality, [140] 105
United States, Relations with the, Adj. moved, [143] 202

BERKELEY, Rear Adm. Rt. Hon. Sir M. F. F. (Lord of the Admiralty), *Gloucester*

Baltic, Operations in the, Com. moved for, [141] 102
Crimea, Return of Troops from the, [142] 1097
Napier, Sir C., at Acre, [141] 507, 509

[cont.]

BERKELEY, Rear Adm. Sir M. F. E.—cont.

Naval Administration, Com. moved for, [140] 437
Naval Officers, [143] 523
Navy Estimates, [140] 561, 562; [142] 1444

BERKELEY, Hon. F. H. F., *Bristol*

Ballot, The, Leave, [142] 430, 449
Cape of Good Hope—Postal Communication, [143] 1220
Corrupt Practices Prevention, Com. Amend. [143] 977, 989, 990
Elections, Corrupt Practices at, [140] 383
Graveyards, Metropolitan, [140] 523
Poor Law Amendment (No. 2), 2R. [142] 2042

Bermudas—Supply.

c. [141] 1001

BERNARD, Viscount, *Bandon*

Army Estimates, [142] 1706
Dwellings for Labouring Classes (Ireland), Com. [141] 1789
Education (Ireland), Res. Adj. moved, [142] 1882
Maynooth College, Com. [141] 1069
Militia and the Foreign Legions, [142] 801
Ministers' Money (Ireland), 2R. [141] 1117
Navy Estimates, [142] 1456
Peace Preservation (Ireland), Com. [142] 1574
Postal Communication with Bandon, [141] 2030

BERNERS^a, Lord

Agricultural Statistics, Com. [141] 458; cl. 1, 463; cl. 2, 464
County Courts Acts Amendment, 2R. [142] 9
Grand Juries, 2R. [142] 1967
Paupers, Settlement and Removal of, [140] 217, 218
Ticket-of-Leave System, [142] 255

BESSBOROUGH, Earl of

Peace Preservation (Ireland), Com. [142] 778, 780

BETHELL, Sir R., *see* SOLICITOR GENERAL, The

Bible, Authorised Version of the

c. Address moved (Mr. Heywood), [143] 1221; Motion withdrawn, 1226

BIGGS, Mr. W., *Newport (Isle of Wight)*

Aggravated Assaults, 2R. [142] 172
Education, National, [140] 2007
Executions, Public, [141] 278
Members' Speeches, [143] 1232
Partnership Amendment, 2R. [140] 260, 482
Partnership Amendment (No. 2) Com. [143] 339; 3R. cl. 3, [143] 802
Police (Counties and Boroughs), 2R. [140] 697; Com. cl. 7 [141] 1932; add. cl. [142] 613
Reformatories for Penitent Females, Com. moved for, [143] 934
Supply—Royal Parks, Pleasure Grounds, &c. [141] 237;—Mixed Commissions, 1013, 1014
Turkey, Slavery in, [140] 1575

BIGKOLD, Sir S., *Norwich*

Corrupt Practices Prevention, Com. [143] 990
 Fire Insurances, Com. moved for, [141] 334;
 2R. 1379; Com. [142] 388
 Police (Counties and Boroughs), 2R. [140]
 696; Com. cl. 7, [141] 1934

Billeting (Scotland),

c. Motion (Mr. Cowan), [141] 566, [A. 116, N.
 139, M. 23] 585; Question (Sir A. Agnew),
 [143] 1219

Bills, Public and Private

c. Question (Mr. Brady), [142] 1406

"Birkenhead," Loss of the,

c. Question (Mr. Gordon), [143] 1038

BLACK, Mr. A., *Edinburgh*

Bishops (Scotland), [143] 1486
 Education (Scotland), Leave, [141] 670
 Fireworks (Dublin and Edinburgh), Address
 moved, [141] 1468
 London and Durham, Bishops of, Retirement,
 2R. [143] 1298
 Maynooth College, Com. Amend. [141] 1063
 Medical Profession, Com. [141] 343
 Ministers' Money (Ireland), Com. moved for,
 [140] 1009; 2R. [141] 1115
 Parochial Schools (Scotland), 2R. [142] 890;
 3R. [143] 373; Lords Amends., 1175
 Reformatory Schools, Com. add. cl. [142] 571
 Reformatory Schools (Scotland), 2R. [141] 14
 Supply—Nonconforming, &c., Ministers (Ire-
 land), [141] 1243;—Board of Fisheries
 (Scotland), [142] 882
 Voters, Registration of (Scotland), Com. [142]
 1682

Black Sea, Russian Forts on the,

c. Question (Lord J. Manners), [141] 1908;—
Russian Ships in the, Question (Lord W.
 Graham), 1910

BLACKBURN, Mr. P., *Stirlingshire*

Billeting (Scotland), [141] 576
 Education (Scotland), Leave, [141] 673
 Parochial Schools (Scotland), 2R. [141] 1586;
 [142] 892
 Poor Law Amendment (Scotland), 3R. Amend.
 [143] 810
 Public Works, Com. Amend. [141] 623; cl. 3,
 626
 Supply—Royal Palaces and Public Buildings,
 [141] 223, 226;—Buckingham Palace, 228;
 —Royal Parks, Pleasure Grounds, &c., 230,
 237;—Public Buildings (Ireland), 248;—
 Foreign Office, 251;—Lord Lieutenant of
 Ireland, 254;—Public Works (Ireland), 255;
 —Report, 333;—Education (Ireland), 525,
 527, 541;—Royal Society, Amend. 620, 622;
 —Superannuation Allowances, 1037, 1038;
 —Hospitals (Ireland), 1043;—General Board
 of Health, 1369, 1373;—Temporary Com-
 missions, Amend. [142] 880;—Board of
 Fisheries (Scotland), 882;—Civil Conting-
 encies, 1336
 Voters, Registration of (Scotland), 2R. [142]
 400; Com. 1680

BLAKEMORE, Mr. T. W. B., *Herefordshire*

Death, Punishment of, Com. moved for, [142]
 1249
 Navy Estimates, [140] 585, 586

BLAND, Mr. L. H., *King's Co.*

Chancery, Court of (Ireland), (Incumbered Es-
 tates Court Abolition), 2R. [140] 944
 Commissions without Purchase, [140] 717
 Joint-Stock Companies' Winding-up Act's
 Amendment, 2R. [142] 1151
 Lunatic Asylums (Ireland) (No. 2), Com. cl. 3,
 [142] 1761
 Maynooth College, 2R. [142] 1950
 Peace Preservation (Ireland), 2R. [142] 1393
 Prisons (Ireland), Com. cl. 4, 116

BLANDFORD, Marquess of, *Woodstock*

Bands in the Parks on Sundays, [141] 1702,
 1705, 1706, 1913
 Convict Hulks, [142] 1402
 Ecclesiastical Commission, Com. moved for,
 [140] 976
 Episcopal and Capitular Estates, Leave, [140]
 181, 182
 Kars, Fall of, Res. [141] 1785
 London and Durham, Bishops of, Retirement,
 [143] 1359
 Parishes, Formation of, 2R. [140] 681, 687,
 688; Com. cl. 2, [142] 575; cl. 4, ib.; cl. 25,
 [143] 554; Lords Amends. 1418
 Peace, Celebration of the, [141] 1541
 Plumstead, Church Accommodation at, [142]
 1103, 1107
 Suffragan Bishops, [142] 589
 Supply—St. James's Park, [142] 1415

Bleaching, &c. Works Bill,

c. Leave, [140] 1851; 1R.* ib.

Bleaching, &c. Works (No. 2) Bill,

c. 1R.* [141] 1105;
 2R. Amend. (Mr. Kirk), [142] 1053; Adj. De-
 bate, [143] 210, [o. q. A. 65, N. 109, M. 41]
 224

BOLDERO, Col. H. G., *Chippenham*

Army Estimates, [140] 1726, 1750, 1764, 1765,
 2060, 2063, 2069, 2070, 2073, 2083, 2085;
 [141] 208, 209; [142] 1715
 Mortars, Defective, [140] 2194; [141] 45,
 1339
 Naval Administration, Com. moved for, [140]
 435
 Supply—Science and Art Department, Marl-
 borough House Removal, [142] 1133;—St.
 James's Park, 1139
 Wellington Monument, The, [141] 1241

Bounties on Slaves, &c.—Supply,

c. [142] 1027

**BOUVERIE, Rt. Hon. E. P. (Chief Com-
missioner of the Poor Law), *Al-
marnock, &c.***

Cambridge University, Leave, [141] 219; Com.
 [142] 807; cl. 4, 843, 844; cl. 5, 845; cl.
 25, 847, 849; cl. 27, 1198, 1200, 1203, 1207,
 1208, 1209; cl. 29, ib., 1210; cl. 30, 1311.
 cl. 31, 1212; cl. 39, 1214; cl. 40, 1215;
 Rep. add. cl. 1740; cl. 27, 1744, 1749.

BOUVIER, Rt. Hon. E. P.—cont.

- cl. 44, 1750, 1755, 1758; 3R. *add. cl.* 2043;
 Lords' Amends. [143] 1042, 1044
 Dissenters' Marriages, Com. *cl.* 11, [142] 948
 Dwellings for Labouring Classes (Ireland),
 Com. *cl.* 2, [141] 1794
 Imperial Hotel Company, 2R. [140] 1700
 Justices of Peace Qualification, Com. *cl.* 7,
 [141] 1109, 1112
 Parishes, Formation of, Com. *cl.* 25, [143] 554
 Pauper, Scotch and Irish, Removal, Leave,
 [141] 309; 2R. [142] 2156
 Poor Law, The, [140] 151;—Medical Relief,
 1406; [142] 1493
 Poor Law Amendment, Leave, [141] 436, 438;
 2R. [142] 614, 615
 Poor Law Amendment (No. 2), 1R. [142] 616;
 2R. 2043; [143] 256, 260
 Poor Law Amendment (Scotland), 3R. [143]
 811
 Poor, Medical Officers for the, [142] 1493
 St. Pancras Workhouse, [140] 1220, 2111;
 [142] 1228, 1230
 Scientific and Literary Societies, Com. [143]
 224, 226, 229
 Tithe Commutation Rent-Charge, Leave, [140]
 1850; 2R. [142] 154

BOWYER, Mr. G., Dundalk

- Abjuration, Oath of, 3R. [142] 1182
 Appellate Jurisdiction of the House of Lords,
 [140] 2045; 2R. Amend. [143] 415, 429
 Army Estimates, [141] 205
 Audit of Public Accounts, [141] 691, 703
 Conferences at Paris—Italy, [141] 47
 County Courts Acts Amendment, Com. [143]
 690
 Dissenters' Marriages, Com. *cl.* 4, [142] 946;
cl. 11, 947, 948
 Foschini, Escape of, [142] 1733
 Italian Legion, The, [140] 1790
 Italy, Affairs of—Address moved, [143] 782,
 799
 Maynooth College, 2R. [142] 1956, 1962; Adj.
 moved, 1965
 Moneys, Public, Com. moved for, [141] 1462
 Peace, Treaty of, Address moved, [142] 50
 Pensions, [143] 1424
 Prisons, Management of, [141] 875
 Reformatory Schools (Scotland), 2R. [141] 10
 Sardinian Loan, Com. [142] 1889
 Statute Law Consolidation, Address moved,
 [141] 1468
 Supply—Royal Parks, Pleasure Grounds, &c.
 [141] 230, 231, 236;—New Houses of Par-
 liament, 247;—Audit of Public Accounts,
 255;—National Gallery, 609;—Embassies,
 &c. 1028, 1030;—Superannuation Allow-
 ances, 1040;—Royal Society, 621;—General
 Board of Health, 1369;—Statute Law Com-
 mission, [142] 874;—Monument at Scutari,
 1051, 1052
 Tipperary Bank, [142] 1164
 Trust Property, Criminal Appropriation of,
 Leave, [141] 433
 Wills and Administrations, 2R. [142] 2041

BRADY, Mr. J., Leitrim

- Army Estimates, [141] 206
 Bills, Public and Private, [142] 1406, 1407
 Coffee Shops, Night, [141] 2030

VOL. CXLIII. [THIRD SERIES.] [cont.]

BRADY, Mr. J.—continued.

- Dolly- and Leaving-Shops, Suppression of, [141]
 . 1702, 2031
 Dwellings for Labouring Classes (Ireland), Com.
 [141] 1787; *cl.* 9, 1798
 Leitrim Militia, The, [143] 1495
 Medical Profession, Leave, [140] 503; Com.
 [141] 343, 349
 Peace Preservation (Ireland), 2R. [142] 1392
 Spirit Trade (Ireland), 2R. [142] 1320, 1323
 Vaccination, 2R. [141] 275

Brazilian Slave Trade.

- l.* Address moved (Earl of Malmesbury), [143]
 1070
c. Question (Mr. Bramley Moore), [143] 1032

BREADALBANE, Marquess of

- Parochial Schools (Scotland), 3R. [143] 1027

British Embassy Houses Abroad—Supply,

- c.* [143] 272;—see *Embassy Houses Abroad*

British Historical Portrait Gallery—Supply,

- c.* [142] 1113, [A. 97, N. 28, M. 69] 1124

British Museum Commission,

- c.* Question (Mr. Heywood), [140] 1479

British Museum—Sunday Opening,

- c.* Motion (Sir J. Walmsley), [140] 1053;
 Amend. (Mr. Pellatt), 1071; Amend. with-
 drawn, 1116, [m. q. A. 48, N. 376, M. 328]
 1118;—see *Museums, &c.*

British Museum—Supply,

- c.* [141] 600, 1344

BROTHERTON, Mr. J., Salford

- Business of the House, [140] 245
 Death, Punishment of, Com. moved for, [142]
 1258
 Dissenters' Marriages, Com. *cl.* 4, [142] 943
 Factories, 2R. [141] 376; Com. *cl.* 4, [142]
 562
 Fisheries (Ireland), Com. moved for, [142]
 1297
 Police (Counties and Boroughs), Com. *cl.* 1,
 [141] 1582
 Postage Labels, Com. moved for, Adj. moved,
 [142] 1296
 Supply—National Vaccine Establishment, [141]
 1041

BROUGHAM, Lord

- Appellate Jurisdiction of the House of Lords,
 Com. moved for, [140] 1454, 1475
 Burial-Grounds, Unconsecrated, [140] 808
 Chancery Reform, [142] 15
 County Courts, [140] 147, 148; [141] 123;—
 The Optional Clause, 1906
 County Courts Acts Amendment, 2R. [142] 7
 Crimean Commission Report—Board of In-
 quiry, [140] 1021
 Divorce and Matrimonial Causes, 2R. [142]
 419
 Dower—Copyhold and Customary Law, [140]
 705

BROUGHAM, Lord—continued.

Education, Vice President of Committee of Council on, 2R. [140] 822
 Estates, Leases and Sales of Settled, 2R. [140] 216
 Exchequer Bills Funding, 2R. [140] 1937
 Fermoy Peerage, [140] 703
 Hinds, Miss, Murder of, [142] 180
 *Judicial Statistics, [140] 1674; Res. [141] 33
 Legal Education, [140] 1445
 Marriage Law Amending, 1R. [141] 1587; 2R. [142] 205; Com. 322
 Marriage Law, English and Scotch, [141] 1381, 1382
 Mercantile Law Amendment, 1R. [140] 1400; Com. [141] 1693; cl. 1, 1696
 Mercantile Law Amendment (Scotland), 2R. [140] 2034
 Peace, Treaty of, [141] 1591
 Peerages for Life, [140] 376, 451; Com. moved for, 511; Com. 598, 601, 602, 603, 608, 900, 901, 906, 909, 1140, 1176, *1193; Report, 1804
 Portraits, National, Gallery of, [140] 1782
 Women, Property and Earnings of, [141] 120

BROUGHTON, Lord

Oude Treaty, The [141] 777

BROWN, Mr. W., Lancashire, S.

Arctic Expeditions, [143] 401
 Bleaching, &c., Works (No. 2), 2R. [143] 224
 Hospitals (Dublin), Com. cl. 9, Amend. [143] 972
 Joint-Stock Companies, Com. cl. 24, Amend. [142] 640
 Mercantile Law Amendment, 2R. [143] 810
 Partnership Amendment (No. 2), 2R. [142] 661; 3R. cl. 3, [143] 808
 United States, Relations with the [143] 14

BRUCE, Major C. L. C., Elgin and Nairnshire

Billeting (Scotland), [141] 580, 589
 Judicial Bench (Ireland), Returns moved for, [140] 772, 801
 Maynooth College, Com. [141] 1063
 Municipal Reform (Scotland), 2R. [141] 21
 Parochial Schools (Scotland), 2R. [142] 888; Com. Amend. 1464
 Supply—Board of Fisheries (Scotland), [142] 882
 Voters, Registration of (Scotland), Com. [142] 1682

BUCCLEUCH, Duke of

Militia, The, [143] 625
 Parochial Schools (Scotland), Com. cl. 12, Amend. [143] 730; cl. 13, Amend. 732, 733; 3R. 1025, 1026; Commons Amends. 1353

BUCK, Colonel G. S., Barnstaple

Army Estimates [140] 1754; [141] 192; [142] 1553, 1556
 Barrack Accommodation [140] 2193
 Edmonton Militia [140] 1579
 Marine Officers [142] 1402
 Militia and the Foreign Legions, [142] 803
 Navy Estimates, [142] 1433
 Supply—Disembodied Militia, [143] 282

BUCK, Mr. L. W., Devonshire, N.

Police (Counties and Boroughs), Leave, [140] 241

Buckingham Palace—Supply,

c. [141] 228

Budget, The—Financial Statement,

c. Question (Mr. Glyn), [141] 1928; Res. (Chancellor of the Exchequer), [142] 329

BULKELEY, Sir R. B. W., Anglesey

Supply—Royal Parks, Pleasure Grounds, &c., [141] 237

BULLER, Sir J. B. Y., Devonshire, S.

Agricultural Statistics, 2R. [142] 1770
 Army Estimates [142] 1559
 Supply—Disembodied Militia [143] 289, 294

BUNBURY, Capt. W. B. McC., Carlow C.

Dwellings for Labouring Classes (Ireland), Com. add. cl. [142] 1663

Bunhill Fields Burial-Ground,

c. Question (Mr. Miall), [140] 461

Burial Acts Amendment Bill,

c. 1R.* [142] 681; 2R.* ; 3R.*
 l. 1R.* [142] 1968;
 2R. Amend. (Archbishop of Canterbury), [143] 110; Bill withdrawn, 111

Burial-Ground—Blandford,

l. Petition (Earl of Shaftesbury), [142] 953;
 Explanation (Lord Portman), 1219:—*Great Torrington*, Petition (Earl of Portsmouth), 2064

Burial-Grounds,

c. Question (Mr. Palk), [143] 862

Burial-Grounds, Inspection of—Supply,

c. [142] 1034

Burial-Grounds, Unconsecrated,

l. Petition (Lord Brougham), [140] 808

Burial-Grounds (Ireland) Bill,

c. 1R.* [140] 150;
 2R. 493; 3R.* [143] 1103
 l. 1R.* [143] 1063; 2R.* 1176; 3R.* 1419
 Royal Assent, [143] 1491

Burlington House,

c. Question (Hon. P. L. King), [140] 151

BURRELL, Sir C. M., New Shoreham

Beatson, General, [143] 1498
 Justices of the Peace Qualification, Com. cl. 1; [142] 478

Business of the House,

l. Res. (Lord Redesdale), [140] 909; [142] 245, 1400; [143] 1180
 c. Motion (Mr. Brotherton), [140] 245, [A. C.] N. 111, M. 61] 253; Question (Mr. Henley, [141] 2035; (Mr. Hankey), [142] 1626

Business, Public,

c. Motion (Viscount Palmerston), [140] 2044 ;
(Mr. Dunlop), [141] 173 ; Amend. (Mr.
Spooner), 175 ; Motion (Visct. Palmerston),
874 ; Question (Mr. Hadfield), [143] 976 ;
Returns moved for (Mr. Disraeli), 1430

BUTLER, Mr. C. S., *Tower Hamlets*

Drainage, Metropolitan, [143] 735
Justices of the Peace Qualification, Com. cl. 7,
[142] 476, 477 ; cl. 11, *ib.* ; cl. 14, 480
Metropolis Local Management Act Amendment,
(No. 2), Lords' Amends., Amend. [143] 1416,
1418

BUTT, Mr. G. M., *Weymouth*

Chancery, Court of (Ireland), (Incumbered Es-
tates Court Abolition), 2R. [140] 956
Dissenters' Marriages, Com. cl. 2, [142] 940 ;
cl. 4, 941
Dwellings for Labouring Classes (Ireland), Com.
cl. 2, [141] 1794, 1797
Ecclesiastical Courts Jurisdiction, Leave, [140]
398
Education, National, [140] 1992
Factories, Com. cl. 4, [142] 562, 563
Joint-Stock Companies, Com. cl. 37, [142] 643
Judgments Execution, Com. [143] 208
Justices of Peace Qualification, Com. cl. 7,
[141] 1112
Nawab of Surat Treaty, Rep. [142] 1659 ; 3R.
1908
Partnership Amendment (No. 2), Com. [143] 342
Reformatory Schools, Com. *add. cl.* [142] 568
Scientific and Literary Societies, Com. [143] 226
Sligo Election Committee, [142] 1093
Statutes at Large, [140] 998 *

BUTT, Mr. I., *Youghall*

Beatson, General, [143] 1255, 1256
Bleaching Works (No. 2), 2R. [142] 1053 ;
[143] 215
Cambridge University, Rep. cl. 44, [142] 1756,
1758
Crime and Outrage (Ireland) Act, [142] 594
Education (Ireland), Res. [142] 1881, 1882, 1886
Grand Jury Assessment (Ireland), Com. cl. 7,
[142] 618 ; *add. cl.* Amend. 619
Hinds, Miss, Murder of, [142] 285
Incumbered Estates (Ireland), 2R. [143] 379
Indian Budget, The, Com. [143] 1119, 1120 ;
Res. 1167
Judgments Execution, Com. Amend. [143]
207, 210
Justices of Peace Qualification, Com. cl. 3,
[141] 1106 ; cl. 7, 1108
Joint-Stock Companies Winding-up Acts Amend-
ment, 2R. [142] 667
Lunatic Asylums (Ireland) (No. 2), Com. cl. 3,
[142] 1759 ; cl. 4, 1763, 1765
Peace Preservation (Ireland), Com. [142] 1575 ;
cl. 4, Amend. 1578 ; Rep. Amend. 1684
Sadleir, James, and the Tipperary Bank, [143]
381
Supply—Education (Ireland), [141] 542 ;—
Hospitals (Ireland), 1043
Ways and Means, Com. [143] 380

BYNG, Hon. G. H. C., *Tavistock*

Abjuration, Oath of, 3R. [142] 1195
Address in Answer to the Speech, [140] 50
Edmonton Militia, [140] 1577
Thanksgiving, Day of, [141] 1534

Cab Proprietors, Liability of,

c. Question Mr. D. Waddington), [143] 320

CAIRNS, Mr. H. M., *Belfast*

Bankruptcy and Insolvency (Ireland), 2R. [142]
2157
British Museum—Sunday Opening, [140] 1097
Chancery, Court of (Ireland), (Incumbered Es-
tates Court Abolition), Leave, [140] 205 ;
2R. 949
Education (Ireland), Res. [142] 1847
Japan, Convention with, [140] 832
Joint-Stock Companies Winding-up Acts Amend-
ment, 2R. [142] 1767
Lunatic Asylums (Ireland) (No. 2), Com. cl. 3,
[142] 1762 ; cl. 4, 1764
Partnership Amendment, 2R. [140] 475
Postal Service (Ireland), [140] 384
Shipping, Local Dues on, 2R. [140] 1377,
1382
Supply—Theological Professors (Belfast), [141]
594, 596 ;—Non-conforming, &c., Ministers
(Ireland), 1244

CALTHORPE, Lord

Legion of Honour, The, [143] 1348, 1351

CAMBRIDGE, Duke of

Vote of Thanks to the Army, Navy, &c. [142]
198

**Cambridge, Professors in the University of
—Supply,**

c. [142] 1046

Cambridge University and Town Bill,

c. 1R.* [140] 150 ;
2R. Amend. (Mr. Fenwick), 831 ; Amend.
withdrawn, 832 ;
3R.* [141] 1394

Cambridge University Bill,

c. Leave, [141] 219 ; 1R.* *ib.* ; 2R.* 999 ;
[142] Com. 807 ;
cl. 1, 843 ;
cl. 4, Amend. (Mr. Stafford), 843, [*o. q.*
A. 75, N. 31, M. 44] 844 ;
cl. 5, Amend. (Mr. Heywood), [*o. q.* A. 86,
N. 19, M. 67] 844 ;
cl. 6, Amend. (Mr. Heywood), [*o. q.* A. 102,
N. 38, M. 64] 845 ; 2nd Amend. [A. 63,
N. 111, M. 48] 846 ;
cl. 7 ; cl. 20, 846 ;
cl. 23, Amend. (Mr. Heywood), 846 ;
cl. 24, Amend. (Mr. Heywood), 847 ;
cl. 25, Amend. (Mr. Wigram), 847, [A. 79,
N. 121, M. 42] 849 ;
cl. 27, Amend. (Mr. Heywood), [A. 58, N. 74,
M. 16, 1198 ; Amend. (Mr. Wigram), *ib.*,
[A. 78, N. 97, M. 19] 1207 ; 2nd Amend.
(Mr. Heywood), [A. 41, N. 145, M. 104]
1208 ; 3rd Amend. [A. 55, N. 136, M. 81]
ib. ; 4th Amend. [A. 90, N. 128, M. 38]
1209 ;
cl. 29, Amend. (Mr. Fortescue), 1210, [*o. q.*
A. 165, N. 93, M. 72] 1211 ;
cl. 30 ; cl. 31, 1211 ;
cl. 32, 1212 ;
cl. 38, 1213 ;
cl. 39, 1214 ;

Cambridge University Bill—cont.

- 142] *cl.* 40, 1215 ;
 . *Rep. add. cl.* (Mr. Heywood), 1740, [A. 151, N. 109, M. 42] 1742 ;
 . *cl.* 27, Amend. (Mr. Walpole), 1743 ; Amend. withdrawn, 1749 ; Amend. (Mr. Wigram), [A. 61, N. 130, M. 69] *ib.* ;
 . *cl.* 44, Amend. (Mr. Wigram), 1750, [*o. q.* A. 118, N. 41, M. 77] 1755 ; Amend. Mr. Heywood, [*o. q.* A. 60, N. 85, M. 25] 1756 ; 2nd Amend. 1757 ; Amend. withdrawn, 1758 ;
 3R. *add. cl.* (Mr. Bouverie), 2043
 l. 1R.* [142] 2048 ;
 143] 2R.* 220 ;
 . Com. *cl.* 6, 309 ;
 . *cl.* 31, Amend. (Lord Lyttleton), [*o. q.* Content 26, Not Content 51, M. 25] 310 ;
 . *cl.* 44, Amend. (Lord Lyndhurst), 310, [Content 73, Not Content 26, M. 47] 318 ;
 . 3R.* 490 ;
 143] *c.* Lords' Amends. 1042 ; Amend. (Mr. Heywood), 1044, [*o. q.* A. 92, N. 71, M. 21] 1045 ; [*m. q.* A. 90, N. 73, M. 17] *ib.*
 143] l. Royal Assent, 1490

CAMPBELL, Lord

- Abjuration, Oath of, Amendment, 1R. [142] 1667 ; 2R. 1897 ; Com. 2059 ; Bill withdrawn, [143] 6
 Address in Answer to the Speech, [140] 49
 Appellate Jurisdiction of the House of Lords, Com. moved for, [140] 1456, 1465
 Appellate Jurisdiction, 2R. [142] 793, 794 ; Com. 914 ; *cl.* 1, 921 ; Rep. 951 ; That the Bill do pass, 1082
 Burial-Ground, Blandford, [142] 1227
 Burial-Grounds, Unconsecrated, [140] 809, 814
 Capital Punishments, Com. moved for, [142] 250
 Church Discipline, 2R. [141] 1255
 County Courts Acts Amendment, 2R. [142] 5
 Crimean Board of Inquiry, Address moved, [143] 1016, 1022
 Death Punishment on Women, [142] 1058
 Debt and Contempt of Court, Imprisonment for, [142] 1571
 Divorce and Matrimonial Causes, Com. [142] 1977, 1985 ; Rep. 1987 ; [143] 238, 250
 Dower—Copyhold and Customary Law, [140] 705
 Drafts on Bankers, 2R. [142] 1055
 Dwellings for Labouring Classes (Ireland), 3R. [143] 544, 546
 Estates, Leases and Sales of Settled, 2R. [140] 216
 Factories, 2R. [142] 1671
 Fermoy Peerage, [140] 704
 Grand Juries, 2R. [142] 1966, 1967
 Hampstead Heath, [142] 1572
 Hinds, Miss, Murder of, [142] 179
 Joint-Stock Companies, Com. [142] 1890
 Judges, Scotch, Privileges of, [141] 762
 Legal Education, [140] 1447
 London and Durham, Bishops of, Retirement, 1R. [143] 547 ; Com. 952, 953
 Marriage Law Amending, 2R. [142] 206 ; Com. 324
 Marriage Law Amendment, 2R. [141] 1505, 1520
 Marriage Law, English and Scotch, [141] 1382
 Mercantile Law Amendment, 1R. [140] 1400 ; Com. [141], 1694 ; Rep. 1907 ; 3R. [142] 181 ; Re-com. 1158, 1159.

[cont.]

CAMPBELL, Lord—continued.

- Naval Review, The, [141] 1388
 Offences, Trial of, 2R. [140] 512
 Parochial Schools (Scotland), 3R. [143] 1025
 Peace Preservation (Ireland), Com. [142] 778, 779
 Peace, Treaty of, Address moved, [141] 2028
 Peerages for Life,* [140] 327, 362, 442 ; Com. moved for, 511 ; Com. 593, 597, 598, 602, 603, 607, 608, 609, 898, 901, 904, 908, 1130, 1184, 1145, 1165 ; Report, 1290, 1305, 1307
 Poisons, Sale of, [143] 540
 Police (Counties and Boroughs), Com. *cl.* 1, 1674 ; *cl.* 14, [142] 1675
 Police, Metropolitan, 2R. [140] 829, 830
 Sailing Vessels, Regulations for, [142] 850
 Sleeping Statutes, 2R. [142] 1895
 Ticket-of-Leave System, Address moved, [140] 1404 ; [141] 1153, 1176

CAMPBELL, Sir A. F., Argyllshire

- Evictions (Ireland)—Case of Mr. Pollok, [142] 706
 Parochial Schools (Scotland), 2R. [142] 896 ; Com. 1470 ; Lords' Amends. [143] 1175
 Supply—Board of Fisheries (Scotland), [142] 882
 Voters, Registration of (Scotland), Com. [142] 1681

Canada, Indian Department—Supply.
c. [141] 1002**Canada, Troops to,**

- l. Question (Earl of Elgin), [141] 1142
c. Question (Mr. Laing), [141] 1536

CANTERBURY, Archbishop of

- Burial Acts Amendment, 2R. Amend. [143] 110
 Church Discipline, 2R. Amend. [141] 1265
 Church Rates, [140] 2033
 London and Durham, Bishops of, Retirement, 2R. [143] 832, 834

Cape of Good Hope—Supply.

- c.* [142] 1108 ;—see *Orange River Territory*

Cape of Good Hope, State of the

- c.* Question (Mr. Liddell), [143] 336 ; (Lord W. Graham,) 862 ; (Mr. Cheetham), 975 ;—*Postal Communication*, Question (Mr. H. Berkeley), 1220

Capital Punishment

- l. Com. moved for (Bishop of Oxford), [142] 247 ;—See *Death Punishment*

Capital Punishment in the Colonies,

- c.* Question (Mr. W. Ewart), [143] 975

Captured Negroes—Supply.

- c.* [141] 1013

CARDIGAN, Earl of

- Crimean Commission Report, [140] 504
 Naval Review, The, [141] 1390
 Vote of Thanks to the Army, Navy, &c. [142] 199

CARDWELL, Right Hon. E., *Oxford*

Appellate Jurisdiction, [143] 510; Com. 589
 Bleaching, &c., Works (No. 2), 2R. [143] 218
 Cambridge University, Rep. *add. cl.* [142] 1742
 Joint-Stock Companies, Leave, [140] 144; Com. *cl.* 5, [142] 636; *cl.* 13, 638
 London and Durham, Bishops of, Retirement, 2R. [143] 1292, 1302; Com. *cl.* 3, 1383, 1411, 1413
 Nawab of Surat Treaty, Rep. [142] 1309, 1311, 1654, 1659
 Oxford University, Address moved, [140] 2029
 Partnership Amendment, Leave, [140] 144; 2R. 484
 Partnership Amendment (No. 2), 2R. [142] 654; Com. [143] 353; *cl.* 3, [143] 371; 3R. *cl.* 3, 804
 Peace, Treaty of, Address moved, [142] 71
 Poor Law Amendment (No. 2), 2R. [143] 261
 Rolls, Master of the, and the Attorney General for Ireland, [143] 667
 Standing Orders, Res. [143] 1107
 Supply—Science and Art Department, Marlborough House Removal, [142] 1133

Carisbrooke Castle—Supply,

c. [142] 1038

Carlisle Canonries Bill,

c. Leave, [140] 895; 1R.* 1311

CARNARVON, Earl of

India, Torture in, Returns moved for, [140] 1572
 Maritime Law, International, [142] 501
 Peerages for Life, Com. [140] 606; Report, 1306
 Portraits, National, Gallery of, [140] 1787
 United States, Relations with the, [142] 1155

CARTER, Mr. J. B., *Winchester*

Army Estimates, [140] 2093
 Supply—Royal Parks, Pleasure Grounds, &c. [141] 230

CASHEL, Bishop of

Burial-Ground, Blandford, [142] 1225
 Church Discipline, 2R. [141] 1314
 Mail Service, Irish, [141] 1592
 Marriage Law Amendment, 2R. [141] 1521

CASTLEROSSE, Viscount, *Kerry*

Constabulary Force (Ireland), [141] 1593
 Maynooth College, Com. [141] 1068
 Tralee and Killarney Savings Banks, Com. moved for, [142] 772

CAYLEY, Mr. E. S., *York, N. Riding*

Agricultural Statistics, 2R. [142] 1728
 Coal Explosion, Glamorganshire, [143] 1113
 County Courts Acts Amendments, Com. *cl.* 72 (E) [143] 706; 3R. *cl.* 10, 1209
 *Monetary System, Com. moved for, [140] 1518
 Navy Estimates, [140] 555
 Police (Counties and Boroughs), 2R. [140] 2186

CECIL, Lord R. T. G., *Stamford*

Aggravated Assaults, 2R. [142] 175
 Church Building Commission, 3R. [143] 337
 Civil Service, Admissions to the, Com. moved for, [141] 1435
 Dissenters' Marriages, Com. *cl.* 4, [142] 947
 Education, National, Com. [141] 828
 German Legion, The, [143] 1112
 London and Durham, Bishops of, Retirement, 2R. [143] 1280; Com. *cl.* 3, [143] 1410; *cl.* 5, Amends. 1414, 1415
 Reformatories and Industrial Schools, Lords Amends. [143] 1004
 Reformatories, Juvenile, [140] 100
 Reformatory Schools, [141] 874; Com. *add. cl.* [142] 568
 Standing Orders, Res. [143] 1104

Central America

l. Question (Earl of Elgin), [142] 310
c. Question (Mr. M. Gibson), [143] 645

CHAMBERS, Mr. M., *Greenwich*

Appellate Jurisdiction, [143] 509
 Army Estimates, [140] 1264, 2054, 2057, 2063, 2064; [141] 194; [142] 1698, 1699, 1706
 Business, Public, [141] 174
 Civil Service Superannuation, Leave, [140] 894
 Commissions of Deceased Officers, Address moved, [142] 1531
 County Courts Acts Amendment, Rep. *cl.* 30, [143] 996
 Factories, 2R. [141] 377; Com. *cl.* 4, [142] 559
 Harness, Colonel, Case of, Papers moved for, [141] 663
 Hospitals (Dublin), Com. *cl.* 9, [143] 972
 Joint-Stock Companies, Com. *cl.* 37, [142] 643, 645
 Land Transport Corps, [143] 1032
 Naval Officers, [143] 523
 Navy Estimates, [142] 1457
 Partnership Amendment, 2R. [140] 489
 Partnership Amendment (No. 2), Com. [143] 363; *cl.* 3, 366, 370
 Statutes at Large, [140] 998
 Supply—Royal Parks, Pleasure Grounds, &c., [141] 236;—Houses of Parliament, 245, 250, 251;—Emigration, 1013;—Revising Barristers, [142] 1030;—Constabulary Police at Aldershot, 1034
 Wills and Administrations, Com. [143] 209
 Woolwich, Explosion at, [142] 429

CHAMBERS, Mr. T., *Hertford*

Australia, Postal Communication with, [142] 1685
 Cambridge University, Com. *cl.* 27, [142] 1205; *cl.* 30, 1211; Lords, Amends. [143] 1045
 Civil Service Superannuation Fund, Com. [143] 1045
 Income and Land Taxes, Com. *cl.* 2, [143] 941
 Married Women, Rights of, [142] 1283
 Parks on Sundays, The, [142] 259
 Portuguese Government, Claims on the, [142] 261

CHANCELLOR, The LORD (Rt. Hon. Lord CRANWORTH)
 Appellate Jurisdiction of the House of Lords, Com. moved for, [140] 1476
 Appellate Jurisdiction, 2R. [142] 780; Com. 917; Rep. 950, 952, 953; That the Bill do pass, 1083
 Bank Charter Act, Commission moved for, [141] 560
 Bankruptcy (Scotland), 2R. [142] 253
 Burial-Ground—Great Torrington, [142] 2070
 Cambridge University, Com. cl. 6, [143] 309; cl. 31, 310; cl. 44, 312
 Chancery Reform and the late Lord Truro, [141] 628; [142] 14
 Church Discipline, 2R. [141] 1251, 1276, 1277, 1285, 1322
 County Courts, [140] 147; [141] 122; The Optional Clause, 1906
 County Courts Acts Amendment, 2R. [142] 1
 Debt and Contempt of Court, Imprisonment for, [142] 1570
 Divorce and Matrimonial Causes, 2R. [142] 401, 425, 426; Com. 1975; Rep. [143] 235, 250, 252; 3R. 308
 Dower—Copyhold and Customary Law, [140] 705
 Drafts on Bankers, 2R. [142] 1056
 Dwellings for Labouring Classes (Ireland), 3R. [143] 544
 Estates, Leases and Sales of Settled, 2R. [140] 215, 216; Com. 2106; Commons Amends., [143] 1480
 Grand Juries, 2R. [142] 1967
 Hinds, Miss, Murder of, [142] 180
 Incumbered Estates (Ireland), 3R. [143] 1024
 Joint-Stock Companies, 2R. [142] 1489; Com. 1892
 Judges, Scotch, Privileges of, [141] 763
 Judicial Statistics [140] 1698; Res. [141] 35
 London and Durham, Bishops of, Retirement, 1R. [143] 546, 548, 549; 2R. 814; Com. 949; cl. 3, 964; 3R. 1094, 1095, 1101, 1102
 Marriage Law Amending, Commons' Amends. [143] 1352
 Mercantile Law Amendment, 1R. [140] 1393; Com. [141] 1694; cl. 1, 1695; Rep. 1906; 3R. [142] 181, 182; Re-com. 1156; Commons, Amends. [143] 1352
 Mercantile Law Amendment (Scotland), 2R. [140] 2034
 Offences, Trial of, 1R. [140] 218, 219; 2R. 512
 Parliament, Prorogation of, [143] 1491, 1500
 Patents, Law of, [143] 1420
 Peerage, The, [143] 1479
 Peerages for Life, [140] 314; Com. moved for, 508; Com. 597, 598, 601, 602, 603, 607, 609, 898, 900, 901, 904, 905, 907, 1134, 1136, 1153, 1159, 1165, 1209
 Poisons, Sale of, [143] 542
 Sardinian Loan, Message from the Queen, [142] 1471
 Scotch and Irish Peers, Expenses of, [143] 112
 Sleeping Statutes, 2R. [142] 1895
 Statute Law, Consolidation of the, 1R. [143] 1084
 Tickets of Leave—Secondary Punishment, Address moved, [141] 1177
 Title Deeds, Registration of, [143] 1064
 Truro, Lord, Library of the late, [141] 131; Explanation, 628
 Turnpike Trusts Arrangements, 2R. [140] 1448

CHANCELLOR of the EXCHEQUER (Rt. Hon. Sir G. C. Lewis), *Radnor*
 Annuities, 2R. [140] 1444
 Annuities Redemption, Com. [142] 1151
 Appellate Jurisdiction [143] 509, 510; Com. Res. 539
 Army Estimates, [142] 1587, 1698, 1727
 Army Medical Department, [141] 169
 Assessed Taxes Acts, Com. Res. [143] 539
 Audit of Public Accounts, [141] 696, 702
 Bank Charter Act, [140] 222, 980; [142] 277; [143] 1041
 Bank of England, [140] 1407
 Bankers' Compositions, 2R. [141] 1045
 Beatson, General, [143] 1262, 1490
 Billeting (Scotland), [141] 579, 581, 588, 589
 Bishops (Scotland), [143] 1486
 British Museum Commission, [140] 1479
 Budget, The—Financial Statement [140] 1228, 1244; [141] 1928; Res. [142] 329, 383, 385, 387
 Cambridge University, Rep. cl. 27 [142] 1748
 Church Rates (No. 1), [142] 2089
 Civil Service, Admissions to the, Address moved, Previous Question proposed, [141] 1413
 Civil Service Committee, [142] 1163; [143] 525
 Civil Service Superannuation, Leave, [140] 870, 915; 2R. 1012; Com. [143] 1046
 Civil Service Vacancies, [143] 975
 Coast-Guard Service, 2R. [143] 857
 Consolidated Fund Appropriation, Com. cl. 30, [143] 562, 563, 566, 567
 Contractors' Disqualification Removal, Leave, [140] 678; 2R. 1433, 1438
 County Courts Acts Amendments, Com. cl. 73 (D), [143] 699; cl. 72 (E), 706
 County Courts, Judges' Salaries, Com. [142] 2044; [143] 820
 Crimean Commission Inquiry, [143] 1500
 Crown Lands and Church Extension, [143] 267
 Cursitor Baron of the Exchequer, Leave, [143] 939; 2R. 1001
 Decimal Coinage, [140] 833; [143] 974
 Financial Statement—Ways and Means, [140] 1228, 1244
 Fire Insurances—French Offices, [140] 718 835
 Fire Insurances, Com. moved for, [141] 333; 2R. 1374, 1375, 1377, 1380, 1945; Com. [142] 391; cl. 2, 396, 397; add. cl. 399
 Fireworks in the Park, [141] 1707
 Gardeners, Under, Tax on, [140] 1711
 Hospitals (Dublin), Com. cl. 9, [143] 972
 Income and Expenditure, Returns moved for, [140] 228
 Income and Land Taxes, Leave [143] 617; Com. cl. 2, 941, 942, 943; 3R. 1028, 1030
 Income and Property Tax, [141] 644, 657
 Joint-Stock Banks, Leave, [141] 435; Com. 1470
 Justices of Peace Qualification, Com. cl. 7, [141] 1112
 Kara, Fall of, Resolution, [141] 1729, 1754
 Malt, Drawback on, [141] 221
 Monetary System, Com. moved for, [140] 1528; Explanation, 1712
 Moneys, Public, Com. moved for, [141] 1458
 National Gallery Site, 2R. [142] 1394
 National Gallery, Site of the, Address moved, [142] 2110, 2117

CHANCELLOR of the EXCHEQUER—cont.

Navy Estimates, [142] 1459, 1461
 Offences, Trial of, 2R. [140] 1770
 Oxford University, Address moved, [140] 2027, 2031
 Peace, Treaty of, Her Majesty's Answer to Address, [142] 177
 Pensions, [143] 1425; Explanation, 1490
 Pensions, Hereditary, [141] 1238
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1318, 1319
 Police (Counties and Boroughs), Com. cl. 11, [141] 1943; cl. 6, [142] 301, 305; add. cl. 606
 Postage Labels, Com. moved for, [142] 1294
 Racehorse Duty, 8R. [143] 1030
 Ross-shire Rifles, The, [143] 1490
 St. James's Park, [141] 1189; [142] 1090
 Sadleir, James, and the Tipperary Bank, [143] 881
 Sardinian Loan, The, [142] 556; Res. 1497
 Science, Advancement of, Com. moved for, [142] 1266
 Secretaries of State, Return moved for, [141] 1105, 1247, 1248; Com. moved for, [142] 620;—Patents for the, [143] 1426
 Shipping, Local Charges on, Appointment of Com. [141] 677
 Simpson's Crimean Sketches, [142] 1103
 Smithfield Market, Site of, [143] 1031, 1499
 Stamp Duties, Leave, [143] 617; Com. cl. 1, 943; add. cl. 944
 Supply—Civil Service Estimates, [140] 858;—Inland Revenue Department, 868; Report, 2194;—Public Works (Ireland), [141] 254;—Audit of Public Accounts, 256, 257, 259;—Copyhold Inclosure, &c. 261;—Stationery, Printing, &c. 263;—Royal Society, 620, 621;—Superannuation Allowances, 1039;—Hospitals (Ireland), 1044;—Nonconforming, &c., Ministers (Ireland), 1246;—British Museum, 1360;—General Board of Health, 1871;—Board of Fisheries (Scotland), [142] 883;—Embassy Houses Abroad, 1043, 1045;—Incumbered Estates Commission (Ireland), 1049;—British Historical Portrait Gallery, 1113, 1120;—St. James's Park, 1416
 Tea Duties, Com. moved for, [140] 1853
 Tithe Commutation Rent-Charge, 2R. [142] 161
 Tralee and Killarney Savings Banks, Com. moved for, [142] 772, 775
 Turkish Loan, The, [141] 220
 Ways and Means, [143] 405, 406
 Wellington Monument, The, [142] 797
 Williams, Sir W. F., Annuity, 2R. [142] 666
 Wine Duties, Com. moved for, [143] 921, 929

Chancery Amendment Bill,

l. 1R.* [143] 1419

Chancery, Court of Appeal in (Ireland) Bill,

c. 1R.* [142] 2071; 2R.* [143] 113; Com. cl. 3, 506; 3R. [143] 944
 l. 1R.* [143] 1946; 2R.* 1063; 3R.* 1347
 Royal Assent, [143] 1491

Chancery, Court of (Ireland) (Incumbered Estates Court Abolition) Bill,

c. Leave, [140] 184; 1R.* 214; Postponement of, 2R. 590;

Chancery, Court of (Ireland), &c.—cont.

2R. 915; Amend. (Mr. S. FitzGerald), 922; Amend. withdrawn, 970; Appointment of Com. 1426; Amend. (Mr. S. FitzGerald), 1427; Amend. neg. 1428; that Sir E. Perry be nominated, [A. 128, N. 69, M. 59] ib.; 2R.* [143] 116

Chancery Court of (Ireland) (Receivers) Bill,

c. Leave, [140] 183; 1R.* 184; 2R.* [143] 113; Com. cl. 1, 505; 3R.* 549
 l. 1R.* [143] 619; 2R.* 710; 3R.* 1063
 Royal Assent, [143] 1490

Chancery, Court of (Ireland), (Sale of Estates), Bill,

c. 1R.* [142] 2071

Chancery Courts (Ireland) Bills,

c. Leave, [140] 183; 1R.* 184; 2R.* 1311

Chancery Reform,

l. Question (Lord St. Leonards), [142] 9

Chancery Reform and the late Lord Truro,

l. Observations (Lord Chancellor), [141] 628

Chancery Registrars Office Bill,

l. 1R.* [143] 1419

CHAPLIN, Mr. W. J., Salisbury

Naval Review, The, [141] 1558

Charitable Uses Bill,

c. 1R.* [140] 382; 2R.* 611; Com. cl. 2, 973; 3R. Amend. (Mr. Wigram), 1425; Amend. withdrawn, 1426
 l. 1R.* [140] 1445

Charities Bill,

l. 1R.* [143] 383; 2R.* 490; 3R.* 619
 c. 1R.* [143] 783; 2R.* Amend. (Mr. Mowbray), 965; Amend. withdrawn, 968; Com. cl. 1. Amend. (Mr. Mowbray), 1060, [o. q. A. 58, N. 46, M. 12] 1062 3R.* 1103
 Royal Assent [143] 1490

Charity Commission—Supply,

c. [142] 856; Amend. (Mr. W. Williams), 858, [A. 40, N. 146, M. 106] 865

CHEETHAM, Mr. J., Lancashire, S.

Cape of Good Hope, [143] 975
 Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1059
 Factories, 2R. [141] 376; Com. cl. 4, [142] 563; add. cl. 566
 Indian Currency [143] 556
 Supply—Theological Professors (Belfast), [141] 600;—Patent Law Amendment, [142] 831
 United States, Relations with the, [143] 14, 57

CHELSEA, Viscount, Dover

Metropolis Local Management Act Amendment, Com. [140] 2094
 Vestries, Metropolitan, [141] 41, 43
 Wellington Monument, The, [141] 1239; [142] 797

[cont.]

Chelsea Bridge,

c. Explanation (Sir B. Hall), [142] 1227

Chelsea Commission, see Crimean Commission Report,**CHICHESTER, Earl of**

London and Durham, Bishops of, Retirement,
2R. [143] 822; Com. 953; 3R. 1095

CHILD, Mr. S., Staffordshire, N.

Advowsons, 2R. [142] 466

Justices of Peace Qualification, Com. cl. 7,
Amend. [141] 1106, 1107, 1108; cl. 11,
[142] 479

Chimney Sweepers Act,

l. Petition (Earl of Shaftesbury), [143] 307

China Seas, Operations in,

c. Question (Mr. H. Baillie), [140] 453, 718

China, War in—Expenses of,

c. Question (Sir J. Hogg), [141] 658

Church Building Commission Bill,

c. 1R.* [142] 1679; 2R.* 1987;
Com. Amend. (Mr. Hadfield), [143] 305,
[o. q. A. 159, N. 9, M. 150] 306;
3R. 337

l. 1R.* [143] 383; 2R.* 540; 3R.* 710
Royal Assent, [143] 1064

Church Discipline Bill,

l. 1R.* [141] 120;
2R. 1251; Amend. (Archbishop of Canterbury), 1267, [o. q. Content 33, Not Content 41, M. 8] 1324

Church Discipline Act Amendment Bill,

l. 1R.* [140] 698

Church Estates Commissioners,

c. Question (Mr. Ingham), [143] 1220

Church Property,

c. Question (Mr. Frewen), [140] 1228

Church Rates,

l. Petitions (Bishop of Exeter), [140] 1930;
(Archbishop of Canterbury), 2033; (Bishop of Llandaff), [141] 28

c. Question (Sir J. Pakington), [140] 2110

Church Rates Abolition (No. 1) Bill,

c. (Mr. Packe), Leave, [140] 253; 1R.* 258;
Question (Sir J. Pakington), [141] 1706;
(Sir W. Clay), [142] 2087;
Bill withdrawn, 2090

Church Rates Abolition (No. 2) Bill,

c. (Sir W. Clay), 1R.* [140] 451;
2R. 1800; Amend. (Lord J. Manners), 1896,
[o. q. A. 221, N. 178, M. 43] 1924; Adj.
Debate, [142] 467; Amend. (Sir W. Clay),
473; Amend. and Bill withdrawn, 476

Circassia,

l. Question (Earl of Malmesbury), [142] 312

c. Question (Lord C. Hamilton), [142] 980

Civil Contingencies—Supply.

c. [142] 1328; Amend. (Sir F. Baring), 1331;
Amend. withdrawn, 1333

Civil Service,

c. Com. moved for (Visct. Goderich), [143]
525; Order discharged, 530

Civil Service, Admissions to the.

c. Address moved (Viscount Goderich), [141]
1401; Previous Question proposed (Chancellor of the Exchequer), 1421; Motion and
Previous Question withdrawn, 1430; Com.
moved for (Visct. Goderich), *ib.*; Previous
Question put, [A. 108, N. 87, M. 21] 1444

Civil Service Commissioners—Supply,

c. [142] 880

Civil Service, Committee,

c. Question (Mr. Kendall), [142] 1163

Civil Service Estimates,

c. [140] 854; [141] 221

Civil Service Superannuation Bill,

c. Leave, [140] 870; 1R.* 895;
Question (Sir S. Northcote), 915;
2R. 1012;
Com. [143] 1045; Order discharged, 1048

Civil Service Vacancies,

c. Question (Mr. G. A. Hamilton), [143] 974

CLANCARTY, Earl of

Appellate Jurisdiction, 3R. Amend. [142] 1059
Business of the House, Res. [142] 1400
Fairs and Markets (Ireland), [141] 1696
Reformatory and Industrial Schools, Com.
[142] 1324

CLANRICARDE, Marquess of

Abjuration, Oath of, 2R. [142] 1796
Abjuration, Oath of, Amendment, 2R. [142]
1897; Com. 2062; Bill withdrawn, [143] 7
Appellate Jurisdiction, 3R. [142] 1076, 1078;
That the Bill do pass, 1081
Business of the House, Res. [142] 245
Coorg, the Rajah of, [143] 1065
Dalhousie, Marquess of, Pension to, Corre-
spondence moved for, [142] 207, 214
Dwellings for Labouring Classes (Ireland),
3R. [143] 544; Amend. 545
East India Company—Voluntary Payments,
[143] 7
Incumbered Estates (Ireland), 3R. [143] 1023
India—Case of Pertaub Singh and Bisheu Singh,
[143] 625
India, Government of, Com. moved for, [142]
321
India—Land Tax, Returns moved for, [143]
1421
Indian Accounts, Returns moved for, [141]
628, 630
Indian Finance, Papers moved for, [141]
633

CLANRICARDE, Marquess of—cont.

Italy, Affairs of, [142] 975; [143] 727
 Madras, Torture in, Res. [141] 984
 Militia, The, [143] 632
 Militia, Disembodiment of the Irish, [142] 1397
 Militia, Mutiny in an Irish Regiment of, [143] 1347
 Naval Review, The, [141] 1475
 Nawab of Surat Treaty, 2R. [143] 383, 384, 397
 Oude Treaty, The, [141] 775, 778
 Parliament, Houses of—Clock and Bells, [140] 148
 Parma, Austrian Occupation of, Papers moved for, [141] 1390
 Peace Preservation (Ireland), Com. [142] 779
 Peerages for Life, Com. [140] 606, 608
 St. James's Park, [141] 763; [142] 584
 Steam Communication between Holyhead and Kingstown, [143] 1007

CLARENDON, Earl of (Secretary of State for Foreign Affairs)

Address in Answer to the Speech, [140] 39
 Central America, [142] 310
 Circassia, [142] 312
 Danubian Principalities, [142] 670, 671, 672
 Eastern Papers—Alleged Discrepancy, [140] 516
 Ismail and Reni, Dismantling of, [143] 1081, 1083, 1084
 Italy, Austrian Occupation in, [141] 1593;—
 Affairs of, [142] 976; [143] 3, 4, 721
 Maritime Law, International, [142] 488, 494, 524, 527, 539
 North American Provinces, Military Establishments in the, Address moved, [142] 687
 Parma, Austrian Occupation of, Papers moved for, [141] 1392
 Peace, Treaty of, [141] 1591; Address moved, 1988, 1989, 1993, 2004, 2008, 2009
 Poland, [143] 637
 Sardinian Loan, Address moved, [142] 1671
 Slave Trade, Brazil, Address moved, [143] 1075
 United States, Relations with the, [142] 1397, 1473, 1474

CLAY, Sir W., Tower Hamlets

Business of the House, [141] 2036
 Church Rates Abolition (No. 1), Leave, [140] 256; [142] 2087, 2090
 Church Rates Abolition (No. 2), 2R. [140] 1860; Amend. [142] 472
 Kars, Fall of, [140] 2096
 Metropolis Local Management Act Amendment (No. 2), Lords' Amends. [143] 1417
 Monetary System, Com. moved for, [140] 1516
 Parishes, Formation of, Com. cl. 2, [142] 575
 Partnership Amendment, 2R. [140] 479

Clergy Offences Bill,

l. 1R.* [141] 870

CLEVELAND, Duke of

Legion of Honour, The, [143] 1349, 1351
 London and Durham, Bishops of, Retirement, 2R. [143] 824; Com. cl. 3, 962
 Militia, The, [143] 631

Coal Explosion, Glamorganshire,

c. Question (Mr. Cayley), [143] 1113

VOL. CXLIII. [THIRD SERIES.]

Coalwhippers (Port of London) Bill,

c. 1R.* [141] 1593;
 2R. [142] 1728; Amend. (Mr. Gladstone), 1732

Coast Guard,

c. Question (Mr. Stirling), [142] 258; (Mr. Palk), 862

Coast Guard—Supply,

c. [140] 862

Coast Guard Service Bill,

c. 1 R.* [143] 733;
 2R. 842;
 Com. cl. 3, 998;
 cl. 4; cl. 5, 999;
 3R. 1030
 l. 1R.* [143] 1006; 2R.* 1063;
 Com. 1193; 3R.* 1347
 Royal Assent, [143] 1491

Coatham Marriages Validity Bill,

c. 1R.* [142] 1679; 2R.* 1807; 3R.* 2071
 l. 1R.* [143] 1; 2R.* 946; 3R.* 1063
 Royal Assent, [143] 1490

COBBETT, Mr. J. M., Oldham

Bleaching, &c., Works (No. 2), 2R. [143] 219
 Factories, Leave, [140] 1673;
 2R. Amend. [141] 358, 443; Com. Amend. [142] 556; cl. 4, Amend. 559, 563; add. cl. 564
 Police (Counties and Boroughs), 2R. [140] 2185

COBDEN, Mr. R., Yorkshire, W. R.

Shipping, Local Charges on, Com. moved for, [141] 214, 216
 United States, Relations with the, [140] 221, 462

COCKBURN, Sir A. J. E., see ATTORNEY GENERAL, The**Coffee Shops, Night,**

c. Question (Mr. Brady), [141] 2030

COLCHESTER, Lord

Agricultural Statistics, 2R. [140] 2220
 Coast-Guard Service, Com. [143] 1194
 Education, Vice President of Committee of Council on, 2R. [140] 825
 Estates, Leases and Sales of Settled, 2R. [140] 216
 Indian Accounts, Returns moved for, [142] 631
 Legion of Honour, The, [143] 1349
 Maritime Law, International, [142] 481, 494, 547
 Portraits, National, Gallery of, [140] 1788
 Unseaworthy Vessels, [140] 714

COLLIER, Mr. R. P., Plymouth

Appellate Jurisdiction, 2R. [143] 465
 Cambridge University, Com. cl. 39, [142] 1214
 County Courts Acts Amendment, Rep. cl. 30, [143] 906

COLLIER, Mr. R. P.—continued.

Ecclesiastical Courts Jurisdiction, Leave, [140] 384, 394, 403
 Joint-Stock Companies, Leave, [140] 138;
 Com. cl. 37, [142] 645
 Laws, Amendment of the, Res. [140] 635
 Married Women, Rights of, [142] 1282
 Partnership Amendment, Leave, [140] 138
 Shipping, Local Dues on, 2R. [140] 1368
 Wills and Administration, 2R. [142] 2030,
 2033; Com. [143] 299

Colonial Office—Supply,

c. [141] 251

COLVILE, Mr. C. R., Derbyshire, S.

Justices of the Peace Qualification, 2R. [140] 1438; Com. cl. 7, [141] 1107, 1108, 1112;
 [142] 477; cl. 11, 478; cl. 13, 480; cl. 14,
 ib. 481
 Mines, Rating of, Leave, [141] 1467

Commissions, Mixed—Supply.

c. [141] 1013

Commissions of Deceased Officers,

c. Address moved (Mr. Grogan), [142] 1513;
 Motion withdrawn, 1518; Address moved
 (Col. B. Knox), 1529, [A. 39, N. 81, M. 42]
 1533;—see *Army, Commissions*

Commissions, Temporary—Supply,

c. Amend. (Mr. Blackburn), [142] 880; Motion
 neg. 881

Commissions without Purchase,

c. Question (Mr. Bland), [140] 717

Commissioners of Supply (Scotland) Bill,

c. 1R.* [140] 979;
 2R. [141] 1; 3R.* [142] 550
 l. 1R.* [142] 621; 2R.* 776; 3R.* [143] 710
 Royal Assent, [143] 1491

Common Law, Courts of (Ireland), Bill,

c. 1R.* [140] 219; 2R.* [141] 220; 3R.*
 [143] 398
 l. 1R.* [143] 490; 2R.* 1006; 3R.* 1176
 Royal Assent, [143] 1491

Commons, House of, Offices Bill,

c. Leave, [140] 258; 1R.* 259;
 2R. 447; 3R.* 522
 l. 1R.* [140] 591; 2R.* 806; 3R.* 977
 Royal Assent, [140] 1445

Commons Inclosure Bill,

c. 1R.* [140] 716; 2R.* 914; 3R.* 1218
 l. 1R.* [140] 1289; 2R.* 1563; 3R.* 1770
 Royal Assent, [141] 870

Commons Inclosure (No. 2) Bill

c. 1R.* [143] 206; 2R.* 252; 3R.* 398
 l. 1R.* [143] 490; 2R.* 812; 3R.* 1007
 Royal Assent, [143] 1491

Comptroller of Exchequer—Supply,

c. [141] 251

Conferences at Paris—Italy. Prussia,

c. Question (Mr. Bowyer), [141] 47

CONGLETON, Lord

Madras, Torture in, Res. [141] 998

Consolidated Fund (£1,631,005 1s. 5d.) Bill,

c. 1R.* [140] 1406; 2R.* 1430; 3R.* 1574
 l. 1R.* [140] 1674; 2R.* 1770; 3R.* 1930
 Royal Assent, [140] 2033

Consolidated Fund (£26,000,000) Bill,

c. 1R.* [140] 1790; 2R.* 1860; 3R.* 2036
 l. 1R.* [140] 2095; 2R.* 2202; 3R.* [141] 23
 Royal Assent, [141] 120

Consolidated Fund (Appropriation) Bill,

c. 1R.* [143] 398; 2R.* 525;
 Com. 558;
 cl. 8, 561;
 cl. 30, Amend. (Mr. W. Williams), 562;
 Amend. withdrawn, 567;
 cl. 36, 568;
 3R. 939
 l. 1R.* [143] 946; 2R.* 1063;
 Com. 1180; 3R.* 1478
 Royal Assent, [143] 1490

Consular Establishments Abroad—Supply,

c. [141] 1014

Contempt of Court, Imprisonment for,

l. Petition (Lord St. Leonards), [142] 1570

Contractors' Disqualification Removal Bill,

c. Leave, [140] 677; 1R.* 680;
 2R. 1430; Bill withdrawn, 1438

Convict Hulks,

c. Question (Marquess of Blandford), [142] 1402

Convicts—Supply,

c. [141] 523

Convocation,

l. Petition (Lord Redesdale), [143] 397

Copyhold Acts Amendment Bill,

l. 1R.* [143] 524

**Copyhold Inclosure and Tithe Commis-
sion, &c.—Supply,**

c. [141] 260, 261

Corn Returns, Inspectors of—Supply,

c. [142] 1028

Cornwall Militia,

c. Question (Mr. Robartes), [143] 12

Corrupt Practices Prevention Bill,

c. 1R.* [142] 1679; 2R.* [143] 549;
 Com. 977; Amend. (Mr. H. Berkeley), 986;
 Amend. withdrawn, 990; 3R.* 1037
 l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
 Royal Assent, [143] 1491

CORRY, Rt. Hon. H. T. L., Tyrone
Navy Estimates, [140] 587

County Courts.

- l. Petition (Lord Brougham), [140] 147; Observations (Lord Brougham), [141] 122;—*The Optional Clause*, Petition (Lord Brougham), 1906
- c. Question (Mr. H. S. Keating), [140] 152

County Courts Acts Amendment Bill,

- l. 1R.* [140] 2202;
2R. [142] 1; 3R.* 1395
- c. 1R.* [142] 1493; 2R.* 1807;
- 143] Com. 684, Amend. (Mr. Gladstone), 688;
Motion neg. 692;
- cl. 5, Amend. (Mr. Hadfield), *ib.*; Amend.
withdrawn, 694;
- cl. 20, 694;
- cl. 21, Amend. (Mr. S. Fitzgerald), 696;
- cl. 72 (D) 696, Amend. (Sir J. Pakington),
699, [o. q. A 185, N. 63, M. 122] 705;
- cl. 72 (E), Amend. (Mr. Kendall), 705,
[A. 73, N. 162, M. 89] 708;
- Rep cl. 9, 995; cl. struck out, *ib.*
- cl. 30; Amend. (Sir S. Northcote), 995;
Amend. neg. 996;
- cl. 82, Amend. (Mr. Roebuck), 996; Amend.
neg. 997;
- 3R. 1200;
- add. cl. (Col. W. Patten), 1202;
- add. cl. (Mr. Hadfield), 1203; cl. withdrawn,
1205;
- add. cl. (Attorney General), 1206; cl. neg. *ib.*;
- cl. 10, 1206; Amend. cancelled, 1209
- Bill passed, *ib.*
- 143] l. Royal Assent, 1491

County Courts, Judges' Salaries.

- c. Address moved (Mr. Roebuck), [141] 279;
Previous Question moved (Sir G. Grey),
294; Motion and Previous Question with-
drawn, 309;
- Com. [142] 2044; Question (Mr. Gladstone),
[143] 320

COWAN, Mr. C., Edinburgh

- Army Estimates, [140] 1757; [142] 1726
- Billeting (Scotland), [141] 566; [143] 238
- Edinburgh University of, [143] 332
- Hospitals (Dublin), Com. Amend. [143] 968
- Housebreaking in Scotland, [143] 118
- Kars, Fall of, Res. [141] 1833
- Life Insurance Companies, [140] 1951
- Militia Pay, Com. [143] 860
- Poor Law Amendment (Scotland), 3R. [143] 811
- Supply—Disembodied Militia, [143] 288

COWPER, Rt. Hon. W. F. (President of the Board of Health), Hertford

- Health, General Board of, Continuance, Com.
[143] 993
- Health, Public, Leave, [142] 465; Com. [143]
498, 505
- Medical Profession, Com. [141] 349, 759, 760,
761
- Napier, Sir C., at Acre, [141] 517
- Peace, Treaty of, Address moved, [141] 2022
- Supply—National Vaccine Establishment, [141]
1041, 1042
- Vaccination, 2R. [141] 34, 271; [143] 402,
403; Com. 549

*Crampton, Mr., Dismissal of, see United
States, Relations with the,*

**CRANWORTH, Lord, see CHANCELLOR, The
LORD**

CRAUFURD, Mr. E. H. J., Ayr, &c.

- Billeting (Scotland), [141] 578
- Cambridge University, Com. cl. 6, [142] 845
- Corrupt Practices Prevention, Com. [143] 985
- County Courts Acts Amendment, Com. cl. 5,
[143] 693; cl. 20, 695; 3R. add. cl. 1204,
1205
- Hospitals (Dublin), Com. [143] 971
- Judgments Execution, Leave, [140] 182, 183;
Com. [143] 209, 538, 539, 1003
- Kars, Fall of, Res. [141] 1893
- Laws, Amendment of the, Res. [140] 664
- Medical Profession, Com. [141] 342
- Mercantile Law Amendment, 2R. [143] 810
- Partnership Amendment (No. 2), Com. cl. 1,
Amend. [143] 364
- Poor Law Amendment (Scotland), 3R. [143] 811
- Supply—Remembrancer of Exchequer (Scot-
land), [141] 253;—Stationery, Printing, &c.
264

Crime and Outrage (Ireland) Act,

- c. Question (Mr. I. Butt), [142] 594

Crimea, The,

- Army, Mortality in the, c. Question (Sir De L.
Evans), [140] 220
- Cavalry and Artillery Horses in the, l. Ques-
tion (Earl of Malmesbury), [141] 772
- Commissariat, The, c. Question (Sir J. Fergus-
son), [140] 382
- Crimean Tartars, c. Question (Mr. Holland),
[141] 45
- Eastern Papers—Alleged Discrepancy, l. Ques-
tion (Earl Grey), [140] 513
- Engineers in the, c. Observations (Capt. L.
Vernon), [143] 645
- Graves of Soldiers, c. Question (Sir J. Fergus-
son), [140] 2040
- Horses of Officers, c. Question (Mr. Noel), [142]
327; (Sir J. Pakington), 427; (Sir De L.
Evans), 550
- Return of Troops from, c. Question (Lord
Elcho), [142] 1095; Explanation (Sir C.
Wood), 1162; Question (Lord A. Vane
Tempest), 1407; Observations, 1570; (Sir
H. Davie), 1579; Question (Col. French),
[143] 264
- Soldiers' Kits lost in the, c. Question (Capt.
Scobell), [141] 2032
- Sunday Reviews in the, c. Question (Capt.
Stuart), [141] 565
- Troops, Conveyance of, from, c. Question
(Capt. Scobell), [141] 2032

Crimean Commission Report.

- l. Statements (Earl of Cardigan), [140] 504;
(Earl of Lucan), 505;—*Board of Inquiry*,
Notico (Lord Panmure), 1017; Question
(Earl of Lucan), [143] 490, 640; Address
moved (Earl of Lucan), 1013; Motion with-
drawn, 1022; Explanation (Earl of Lucan),
1176
- c. Question (Lord W. Graham), [140] 452,
980; (Mr. Palk), 834; [140] 479; [141]

Crimean Commission Report—cont.

882, 1799; (Colonel North), [140] 1050; [143] 1499; (Sir De L. Evans), [140] 1407; (Mr. Roebuck), 1411; (Sir J. Pakington), 1478; (Mr. Stanley), 1480; (Mr. Stuart Wortley), 1574;—Motion (Mr. Roebuck), 1582; Motion neg. 1670;—Explanations (Sir De L. Evans), 1702; Lord C. Hamilton, 1706;—Observations (Mr. C. P. Villiers), [143] 1115; Question (Mr. Kinnaid), 1273; (Mr. Layard), 1426;

Crimean Medals—The Sardinian Army,
c. Question (Mr. Otway), [142] 261

Criminal Appropriation of Trust Property Bill,

c. 1R.* [143] 252;
Question (Mr. Hadfield), 1113

Criminal Justice Bill,

c. 1R.* [143] 398; 2R.* 525; 3R.* 641
l. 1R.* [143] 710; 2R.* 1063; 3R.* 1347
Royal Assent, [143] 1491

Criminal Procedure Bill,

l. 1R. [143] 1089

CROSSLEY, Mr. F., Halifax

Army Estimates, [141] 205
British Museum—Sunday Opening, [140] 1073
Factories, 2R. [141] 444; Com. add. cl. [142] 565
Fire Insurances, 2R. [141] 1945
Partnership Amendment (No. 2), Com. [143] 342
Police (Counties and Boroughs), Com. cl. 7, [141] 1933
Shipping, Local Charges on, Com. moved for, [141] 218
Supply—Theological Professors (Belfast), [141] 598;—Nonconforming, &c., Ministers (Ireland), Amend. 1246;—Education, [142] 1383

Crown Land and Church Extension,

c. Question (Mr. Thornely), [143] 264; (Mr. W. Williams), 267

CUBITT, Mr. W., Andover

Appellate Jurisdiction, [142] 2075
Mortars, Defective, [141] 1349
National Gallery, Site of the, Address moved, [142] 2124

CURRIE, Mr. R., Northampton

Appellate Jurisdiction, Com. Amend. [143] 568

Cursitor, Baron of the Exchequer Bill,

c. Leave, [143] 939; 1R.* ib.;
2R. 1001;
3R. 1030;
l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
Royal Assent [143] 1491

Custom House Bonds—The Peace,

c. Question (Mr. Thornely), [141] 564;—*Regulations*, Question (Mr. Horsfall), [141] 874

Custom House Officers, Salaries of,

c. Question (Sir S. Northcote), [140] 2112

Customs Bill,

c. 1R.* [143] 495

Customs (No. 2) Bill,

c. 1R.* [143] 525; 2R.* 549; 3R.* 733
l. 1R.* [143] 812; 2R.* 946; 3R.* 1063
Royal Assent, [143] 1490

Customs Department—Supply,

c. [140] 859

Customs Duties at Spanish Ports,

c. Question (Mr. Liddell), [141] 1799

Customs Establishment, Liverpool,

c. Question (Mr. Horsfall), [141] 1885

Dalhousie, Marquess of—Indian Pension,

l. Correspondence moved for (Marquess of Clanricarde), 207; Motion withdrawn, [142] 215
c. Observations (Sir E. Perry), [142] 273

DALKEITH, Earl of, Edinburghshire

Ross-shire Rifles, The, [143] 1489

Danube, Navigation of the,

c. Question (Col. Dunne), [143] 555

Danubian Principalities,

l. Question (Lord Lyndhurst), [142] 668
c. Question (Mr. Roebuck), [142] 851; Mr. Otway), [143] 1040

DAVIE, MAJOR GEN. Sir H. R., Haddington, &c.

Crimea, Return of Troops from the, [142] 1579

DAVIES, Mr. J. L., Cardigan, &c.

Army Estimates, [140] 2088; [142] 1552
Cambridge University, Com. cl. 4, [142] 844
Church Rates Abolition (No. 1), 1R. [140] 258
Dwellings for Labouring Classes (Ireland), Com. cl. 2, Amend. [141] 1794
Harbour of Refuge (Cardigan Bay), Com. moved for, [140] 668, 675, 676
Justices of Peace Qualification, Com. cl. 7, [141] 1106; cl. 11, [142] 479
Lampeter College, [141] 468
Lunatic Asylums (Ireland) (No. 2), Com. cl. 3, [142] 1762
Police (Counties and Boroughs), Com. cl. 2, [141] 1585
Postage Labels, Com. moved for, [142] 1293
St. James's Park, [141] 870
Specialty and Simple Contract Debts, Leave, [141] 432
Supply—Customs Department, [140] 862;—Post Office Services, 867;—Royal Parks, Pleasure Grounds, &c. [141] 232;—New Houses of Parliament, 242, 244;—Board of Fisheries (Scotland), [142] 882, 885;—Inspectors of Corn Returns, 1029;—Embankment at Vauxhall and Battersea-Bridge, 1037;—Agricultural Statistics, 1111;—British Historical Portrait Gallery, 1116;—Civil Contingencies, 1339, 1340;—St. James's Park, 1413, 1416
Transportation, Com. moved for, [141] 400

DAVISON, Mr. R., Belfast

Lunatic Asylums (Ireland) (No. 2), Com. cl. 3, [142] 1761; cl. 4, Amend. 1762
 Militia, Disembodiment of the, [142] 16; [143] 14

DEASY, Mr. R., Cork Co.

Chancery Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 922
 Dwellings for Labouring Classes (Ireland), Com. [141] 1792
 Education (Ireland), Address moved, [142] 1645
 Incumbered Estates Court, Returns moved for, [141] 543, 545
 Joint-Stock Companies' Winding-up Acts Amendment, 2R. [142] 1766
 Judgments Execution, Com. [143] 209
 Justices of Peace Qualification, Com. cl. 7, [141] 1111
 Lunatic Asylums (Ireland) (No. 2), Com. cl. 4, [142] 1764
 Maynooth College, Com. [141] 1081, 1093

Death, Punishment of.

c. Com. moved for (Mr. W. Ewart), [142] 1231, [A. 64, N. 158, M. 94] 1261;—see *Capital Punishment*

Death, Punishment of, on Women,

l. Question (Lord St. Leonards), [142] 1056

Debt and Contempt of Court, Imprisonment for,

l. Petition (Lord St. Leonards), [142] 1570

Debt, Imprisonment for, Bill,

c. 1R.* [143] 641

Decimal Coinage,

c. Question (Mr. Warner), [140] 833; (Mr. G. A. Hamilton), [143] 974

Deeds (Scotland) Bill,

c. 1R.* [142] 1326; 2R.* 1987; 3R.* [143] 220

l. 1R.* [143] 383; 2R.* 1063; 3R.* 1347
 Royal Assent, [143] 1491

DEEDS, Mr. W., Kent, E:

Agricultural Statistics, 2R. [142] 1770
 Justices of the Peace Qualification, 2R. [140] 1439; Com. cl. 7, [141] 1112
 Police (Counties and Boroughs), Leave, [140] 240; 2R. 2118; Com. cl. 7, [141] 1935; cl. 10, 1940
 Shipping, Local Dues on, 2R. [140] 1373

Delamere Forest Bill,

c. 1R.* [140] 914; 2R.* 1048; 3R.* 1311

l. 1R.* [140] 1393; 2R.* 2202; 3R.* [141] 377

Royal Assent, [141] 870

Demerara, Riots in,

c. Question (Mr. Maguire), [141] 2031; (Mr. Horsfall), [142] 1086

DENISON, Mr. E. B., Yorkshire, W. R.

County Courts Acts Amendment, Com. [143] 691
 Dissenters' Marriages, Com. cl. 4, [142] 942
 Factories, Com. [142] 558
 Police (Counties and Boroughs), 2R. [140] 694; Com. cl. 1, [141] 1574; cl. 2, 1583; cl. 10, 1941; cl. 6, [142] 297, 302; cl. 11, 307
 Reformatory Schools, Com. add. cl. [142] 567, 571, 573

DENISON, Mr. J. E., Malton

Appellate Jurisdiction, Com. [143] 580
 Australia, Postal Communication with, [141] 1179
 Education, National, [140] 1990
 Fire Insurances, 2R. [141] 1375
 London and Durham, Bishops of, Retirement, Com. cl. 1, [143] 1371
 Peace, Treaty of, Address moved, [141] 2037

DENMAN, Lord

Abjuration, Oath of, Amendment, Com. [142] 2060
 Appellate Jurisdiction, 2R. [142] 795; Rep. 952, 953; 3R. 1063, 1081
 Divorce and Matrimonial Causes, Com. [142] 1986; Rep. [143] 251
 Dwellings for Labouring Classes (Ireland), 1R. [143] 545
 Indian Accounts, Returns moved for, [142] 630
 Joint-Stock Companies, 2R. [142] 1489
 Limited Liability, [142] 950, 1054
 London and Durham, Bishops of, Retirement, 1R. [143] 548; 2R. 838; 3R. 1101
 Press, The, [142] 1054

DERBY, Earl of

Abjuration, Oath of, Amendment, 1R. [142] 1667; 2R. 1896, 1898; Com. 2055, 2058, 2061, 2063, 2064; Bill withdrawn, [143] 4
 Address in Answer to the Speech, [140] 17, 49
 Agricultural Statistics, 2R. [140] 2215; Com. [141] 445; cl. 1, Amend. 462; cl. 2, 463, 464
 Appellate Jurisdiction of the House of Lords, Com. moved for, [140] 1448, 1454
 Appellate Jurisdiction, Com. [142] 905, 920; 3R. 1068
 Army, Administration of the, Papers moved for, [140] 1023, 1031, 1047
 Bank Charter Act, Commission moved for, [141] 560, 562
 Business of the House, Res. [142] 245
 Cambridge University, Com. cl. 44, [143] 312, 317
 Church Discipline, 2R. [141] 1311
 Crimean Board of Inquiry, Address moved, [143] 1021
 Crimean Commissioners' Report, [140] 506
 Divorce and Matrimonial Causes, Rep. [143] 247, 251
 Education, Vice President of Committee of Council on, 2R. [140] 215
 Estates, Leases and Sales of Settled, 2R. [140] 216
 Exchequer Bills Funding, 2R. [140] 1933
 Factories, 2R. 1668; Com. cl. 4, [142] 1893
 Fermoy Peerage, [140] 448, 698, 703

[cont.]

DERBY, Earl of—continued.

Ismail and Reni, Dismantling of, [143] 1083
 London and Durham, Bishops of, Retirement,
 2R. [143] 831, 832; Com. 958; 3R. 1094,
 1095, 1096
 Maritime Law, International, [142] 521, 527,
 539
 Mortars, Defective, [140] 2202, 2206
 Offences, Trial of, 1R. [140] 219
 Oxford University Bill, [141] 1047
 Parishes, Formation of, 2R. [143] 947; Com.
cl. 9, [143] 1091
 Peace, Treaty of, Address moved, [141] 2001,
 2004, 2006, 2008, 2009
 Peerages for Life, [140] 363, 450; Com. moved
 for, 510, 511; Com. 602, 604, 609, 902, 907,
 1125; Report, 1290
 Sardinian Loan, Address moved, [142] 1672
 Tickets of Leave—Secondary Punishment, Ad-
 dress moved, [141] 1169
 Truro, Lord, Library of the late, [141] 133
 Turnpike Trusts Arrangements, 2R. [140]
 1447
 United States, Relations with the, [142] 1397,
 1472, 1473, 1474
 Vote of Thanks to the Army, Navy, &c. [142]
 193

DERING, Sir E. C., Kent, E.

Crimean Commission Report, [140] 1052

DERRY, Bishop of

Church Discipline, 2R. [141] 1267

DESART, Earl of

Divorce and Matrimonial Causes, Rep. [143]
 243
 Fermoy Peerage, [140] 704

Designs, Registration of—Supply,

c. [142] 1027

DE VERE, Mr. S. E., Limerick Co.

Chancery, Court of (Ireland), (Receivers), Com.
cl. 1, [143] 506
 Dwellings for Labouring Classes (Ireland), 2R.
 [140] 1859; Com. [141] 1787; 3R. [142]
 2158
 Education (Ireland), Address moved, Adj.
 moved, [142] 1647
 Justices of Peace Qualification, Com. *cl.* 7,
 [141] 1111
 Maynooth College, Com. [141] 1077
 Pauper, Scotch and Irish, Removal, Leave,
 [141] 314
 Peace Preservation (Ireland), Com. [142]
 1574
 Ragged Schools in Dublin, [142] 259

DILLWYN, Mr. L. L., Swansea

Aggravated Assaults, Leave, [141] 24; 2R.
 [142] 165
 Women and Children, Assaults on, [140] 152

Diplomatic Service,

c. Question (Mr. W. Ewart), [140] 522

Discussions, Irregular,

c. Observations (Sir J. Pakington), [141] 888

DISRAELI, Rt. Hon. B., Buckinghamshire

Abjuration, Oath of, 2R. [141] 752
 Address in Answer to the Speech, [140] 67
 Aldershot, Review at, [143] 863
 Appellate Jurisdiction, [142] 2078; [143]
 509
 Army Estimates, [142] 1536, 1547
 Audit of Public Accounts, [141] 699
 Billeting (Scotland), [141] 581, 588
 Budget, The—Financial Statement, Res. [142]
 361
 Business, Public, [141] 175; Returns moved
 for, [143] 1430
 Chancery, Court of (Ireland), (Incumbered Es-
 tates Court Abolition), 2R. [140] 969; Ap-
 pointment of Com. 1428
 Church Rates Abolition (No. 2), 2R. [140]
 1928
 Civil Service Superannuation, Leave, [142]
 886, 894
 Consolidated Fund Appropriation, Com. *cl.* 3,
 [143] 565
 County Courts Judges, Salaries of, Address
 moved, [141] 307
 Crimean Commission Report [140] 1709
 Education (Ireland), Address moved, [142]
 1647; Res. 1885
 Education, National, Com. [141] 865, 866,
 953
 Evictions in Galway—Case of Mr. Pollok, Com
 moved for, [141] 1716
 Italy, Affairs of, Address moved, [143] 764,
 801
 Judicial Bench (Ireland), Returns moved for,
 [140] 783
 Kars, Fall of, Res. [141] 1688, 1780, 1853
 Ley, Mr. W., Vote of Thanks to, [140] 225
 Morning Sittings, [142] 1463
 National Gallery, Site of the, Address moved,
 [142] 2134, 2146, 2153
 New Zealand, Salary of the Bishop of, [143]
 328
 Parochial Schools (Scotland), Com. [142]
 1464
 Partnership Amendment (No. 2), That the Bill
 do pass, [143] 808
 Peace, Preliminaries of, [140] 1725, 1726
 Peace, Treaty of, Address moved, [141] 2034
 Pensions, Hereditary, [141] 1238
 Printing Expenses—Returns, [141] 387
 Prussia—Conference at Paris, [141] 47, 153
 Sardinian Loan, The, [142] 555
 Session, Review of the, [143] 1107, 1109; Re-
 turns moved for, 1430
 Shipping, Local Charges on, Appointment of
 Com. [141] 678.
 Shipping, Local Dues on, 2R. [140] 1354,
 1414, 1952, 2191
 Supply, [140] 1671;—Royal Parks, Pleasure
 Grounds, &c. [141] 239;—Audit of Public
 Accounts, 259;—Stationery, Printing, &c.,
 265, 268;—Education (Ireland), 529, 538,
 540;—Superannuation Allowances, 1036;—
 British Museum, 1362;—Embassy House
 Abroad, [142] 1044;—Science and Art De-
 partment, Marlborough House Remova-
 1125, 1130;—St. James's Park, 1565
 United States, Relations with the, [140] 850,
 851, 852; [142] 973, 1083, 1163, 1403,
 1405, 1509
 Vote of Thanks to the Army, Navy, &c., [142]
 230
 Ways and Means, [143] 405

Dissenters' Marriages Bill,

- c. 1R.* [140] 382;
 2R. 1928;
 Com. cl. 1, [142] 939;
 cl. 2, 940; Amend. (Mr. Hardy), 941;
 cl. 4, Amend. (Sir J. Duckworth), 941, [A. 93,
 N. 85, M. 8] 947;
 cl. 11, Proviso (Mr. Henley), 948;
 3R.* [143] 12

Divorce and Matrimonial Causes Bill,

- l. 1R.* [141] 870;
 2R. [142] 401; Amend. (Lord Lyndhurst),
 418; Amend. withdrawn, 426;
 Com. 1968;
 Rep. Amend. (Lord Stanley of Alderley), [o. q.
 Content 9, Not Content 7, M. 2] 1987;
 Amend. (Bishop of Oxford), [143] 230; [o. q.
 Content 43, Not Content 10, M. 33] 251
 3R. 308
 c. 1R.* [143] 319;
 2R. 710

Dolly- and Leaving-Shops,

- c. Question (Mr. Brady), [141] 1702, 2031

DONOUGHMORE, Earl of

- Appellate Jurisdiction, Com. cl. 1, [142] 921
 Cambridge University, Com. cl. 44, [143] 315
 Divorce and Matrimonial Causes, Rep. [143]
 241
 Dwellings for Labouring Classes (Ireland), 3R.
 [143] 545
 Fire Insurances, 2R. [142] 672
 Foreign Legion, The, [142] 1152
 Militia, Irish, Disembodiment of the, [142]
 1395
 Militia, Mutiny in an Irish Regiment of, [143]
 543
 Peace Preservation (Ireland), Com. Amend.
 [142] 776, 780
 Peerages for Life, Report, [140] 1307
 Peers, Scotch and Irish, Expenses of, Com.
 moved for, [143] 111, 113
 Poisons, Sale of, [143] 542

Dowbiggen, Major, Case of,

- c. Question (Sir De L. Evans), [140] 2109

Dower—Copyhold and Customary Law,

- l. Petition (Lord Brougham), [140] 705

Drafts on Bankers Bill,

- c. Leave, [140] 214; 1R.* 1311;
 2R. [141] 119, 439; 3R.* 1394
 l. 1R.* [141] 1470;
 2R. [142] 1055; 3R.* 1324
 Royal Assent, [142] 1771

Drainage (Ireland) Bill,

- c. 1R.* [141] 1908;
 2R.* [142] 1493; 3R.* [143] 12
 l. 1R.* [143] 110; 2R.* 383; 3R.* 710
 Royal Assent, [143] 1064

Drainage Advances Acts Amendment Bill,

- c. 1R.* [140] 716;
 2R. 972;
 Com. 1015; 3R.* 1478
 l. 1R.* [140] 1563; 2R.* 2202; 3R.* [141] 28
 Royal Assent, [141] 120

Drainage Metropolitan,

- c. Question (Mr. Butler), [143] 735

***Drainage (Private Advances) Acts Amend-
ment Bill,***

- l. 1R.* [142] 1; 2R.* 576

***DRUMLANRIG, Viscount (Comptroller of the
Household), Dumfriesshire***

- Address in Answer to the Speech, Her Ma-
 jesty's Answer, [140] 181
 Education (Ireland), Her Majesty's Reply to
 Address, [142] 1992
 National Gallery, Her Majesty's Reply to Ad-
 dress, [143] 510

DRUMMOND, Mr. H., Surrey, W.

- Abjuration, Oath of, Com. cl. 2, [142] 602
 Bands in the Parks on Sundays, [141] 1918
 Bleaching, &c. (No. 2), 2R. [143] 217
 Church Rates Abolition (No. 2), 2R. [140]
 1907
 Death, Punishment of, Com. moved for, [142]
 1245
 Dwellings for Labouring Classes (Ireland), Com.
 cl. 2, [141] 1795
 Education, National, Com. [141] 935
 Evictions (Ireland)—Case of Mr. Pollok, [142]
 707
 Imperial Hotel Company, 2R. [140] 1702
 Justices of Peace Qualification, Com. cl. 7,
 [141] 1109
 Laws, Amendment of the, Res. [140] 655
 Maynooth College, 2R. [142] 1943; Com.
 [141] 1078
 Medical Profession, Com. [141] 341
 Monetary System, Com. moved for, [140]
 1490
 Peace, Treaty of, Address moved, [142] 46
 Reformatory Schools (Scotland), 2R. [141] 10
 Supply—Royal Parks, Pleasure Grounds, &c.,
 [141] 233;—New Houses of Parliament,
 242, 243;—Superannuation Allowances,
 1037;—Toulonese, &c. Emigrants, 1040
 Tenant Right (Ireland), [142] 979

Dublin Metropolitan Police Bill,

- c. 1R.* [141] 1324;
 2R. [142] 1215; Amend. (Mr. Grogan) 1216;
 Adj. moved (Col. Taylor), [A. 52, N. 65,
 M. 13] 1218; 2nd Div. [A. 46, N. 69, M. 23]
 ib.; Adj. Debate [143] 117; Bill withdrawn,
 118

Dublin, Postal Communication with,

- l. Question (Viscount Dungannon), [141] 1591
 c. Question (Mr. H. Herbert), [141] 1530;
 (Mr. Macartney), [142] 552

Dublin University Bill,

- c. 1R.* [142] 588

DUCKWORTH, Sir J. T. B., Exeter

- Dissenters' Marriages, Com. cl. 4, Amend.
 [142] 941, 945, 947

DUKE, Sir J., London

- London Corporation, Leave, [141] 331; [143]
 398

Dulwich College Bill,

- L.* 1R.* [142] 1771; 2R.* 2048; 3R.* [143] 710
c. 1R.* [143] 1027;
 Question (Mr. T. Duncombe), 1033

**DUNCAN, Viscount (Lord of the Treasury),
Forfarshire**

- Army Estimates, [142] 1721
 London and Durham, Bishops of, Retirement,
 2R. [143] 1313
 Municipal Reform (Scotland), Leave, [140] 613
 Registration (Scotland), [141] 41

DUNCAN, Mr. G., Dundee

- Billeting (Scotland), [141] 576
 Bishops (Scotland), [143] 1486
 Bleaching, &c., Works, (No. 2), 2R. [143] 211
 Evictions (Ireland)—Case of Mr. Pollok, [142] 704
 Fire Insurances, 2R. [141] 1945
 London and Durham, Bishops of, Retirement,
 Com. cl. 3, [143] 1412
 Members' Speeches, [143] 1228
 Poor Law Amendment (Scotland), 3R. [143] 811
 Shipping. Local Charges on, Appointment of,
 Com. [141] 689
 Supply—Post-Office Services, [140] 866

DUNCANNON, Viscount

- Tickets of Leave—Secondary Punishments,
 [141] 1472

DUNCOMBE, Hon. Capt. A., York, E. R.

- Naval Review, The, [141] 1400
 Supply—General Board of Health, [141] 1374

DUNCOMBE, Mr. T. S., Finsbury

- Abjuration, Oath of, 3R. [142] 1196
 Alien Act—Col. Türr, [140] 90, 91
 Contractors' Disqualification Removal, 2R.
 [140] 1431
 Crimean Commission Report, [140] 1574
 Dulwich College, [143] 1033
 Exiles, Political, [143] 1218
 Health, Public, Com. [143] 503
 Imperial Hotel Company, 2R. [140] 1700
 Justices of the Peace Qualification, 2R. [140] 1443
 London and Durham, Bishops of, Retirement,
 2R. [143] 1323, 1326; Com. cl. 3, Amend.
 1382, 1383
 Medical Profession, Com. [141] 345, 760
 Metropolis Local Management Act Amendment,
 [141] 471
 Metropolitan Management, [140] 2037, 2038
 Naval Review, The, [141] 1554
 Political Offenders, Pardon of, [142] 262
 Sligo Election Committee, [142] 1091, 1095
 Tasmania, Governor of, [140] 1311
 Vaccination, [143] 402, 403; Com. 552
 Vestries, Metropolitan, [141] 43

DUNDAS, Mr. G., Linlithgow

- Mortars, Defective, [141] 1335
 Parochial Schools (Scotland), 2R. [142] 896
 Voters, Registration of (Scotland), Com. Amend.
 [142] 1679

DUNGANNON, Viscount

- Abjuration, Oath of, 2R. [142] 1802
 Agricultural Statistics, 2R. [140] 2214
 Burial-Ground, Blandford, [142] 974, 1226.
 Capital Punishment, Com. moved for, [142] 252
 Divorce and Matrimonial Causes, Com. [142] 1986; Rep. 1987; [143] 246
 Dwellings for Labouring Classes (Ireland), 3R.
 [143] 545
 London and Durham, Bishops of, Retirement,
 1R. [143] 548, 549; Com. cl. 3, 963; 3R.
 1098; Commons' Amends. 1479
 Mail Service, Irish, [141] 1591
 Marriage Law Amendment, 2R. [141] 1513
 Militia, Irish, Summary Dismissal of, [142] 1067
 Parochial Schools (Scotland), 3R. [143] 1627
 Peerages for Life, Com. [140] 609; Report.
 1308
 Police (Counties and Boroughs), Com. cl. 1.
 [142] 1674
 Portraits, National Gallery of, [140] 1733
 Sailing Vessels, Regulations for, [142] 859
 Scotch and Irish Peers, Expenses of, [142] 113
 Steam Communication between Holyhead and
 Kingstown, [143] 1007
 Ticket-of-Leave System, Returns moved for.
 [140] 1401, 1402; [142] 254, 257

DUNGARVAN, Viscount, Frome

- Police (Counties and Boroughs), Com. cl. 2,
 Amend. [141] 1936, 1937

DUNLOP, Mr. A. M., Greenock

- Business, Public, [141] 173
 Commissioners of Supply (Scotland), 3R. [141] 1
 Joint-Stock Companies, Com. cl. 5; Amend.
 [142] 634
 Kars, Fall of, Res. [141] 1802
 Ministers' Money (Ireland), Com. moved for.
 [140] 1001
 Municipal Reform (Scotland), 2R. [141] 21
 Parishes, Formation of, Com. add. cl. [143] 554
 Reformatory Schools, Com. add. cl. [142] 574
 Reformatory Schools (Scotland), 2R. [141] 19;
 Com. cl. 1, [142] 237
 Voters, Registration of, (Scotland), 2R. [142] 400

DUNNE, Lieut.-Col. F. P., Portarlington

- Army—Education of Officers, [142] 1013
 Army Estimates, [140] 1250, 1262, 1263, 1265,
 1287, 1735, 1744, 1764, 1765, 2054, 2055,
 2056, 2058, 2060, 2062, 2068, 2071, 2077,
 2078, 2093; [142] 1533, 1541, 1558, 1559,
 1691, 1698, 1702, 1716
 Army Prize Money, [143] 269
 Beatson, General, Address moved, [143] 936,
 938, 1498
 Billeting (Scotland), [141] 579
 Bleaching, &c., Works (No. 2), 2R. [143] 211
 Burial-Grounds (Ireland), 2R. [140] 493
 Chancery, Court of (Ireland), (Incumbered Es-
 tates Court Abolition), 2R. [140] 590, 953,
 960; Appointment of Com. 1423
 Commissions of Deceased Officers, Address
 moved, [142] 1519
 Danube, Navigation of the, [143] 555

DUNNE, Lieut.-Col. F. P.—*cont.*

Drainage Advances Act Amendment, 2R. [140] 972

Factories, Leave, [140] 1673; 2R. adj. moved, [141] 376, 443; Com. [142] 558; cl. 4, 562

Field Allowances, [141] 1926

Fireworks (Dublin and Edinburgh), Address moved, [141] 1468

Foreign Legion, The, [141] 1048

German Legion, The, [140] 1050

Grand Juries (Ireland), Leave, [141] 1444

Grand Jury Assessment (Ireland), Com. cl. 8, [142] 618; *add. cl.* 619

Harness, Colonel, case of, [141] 277; Papers moved for, 662

Incumbered Estates Court, Returns moved for, [141] 544; 2R. [143] 378

Ismail, Evacuation of, [143] 13

Judgments Execution, Com. 206, 537

Juries (Ireland), 2R. [141] 1469

Justices of Peace Qualification, Com. cl. 7, [141] 1107, 1109

Kars, Fall of, Resolution, [141] 1630

Lunatic Asylums (Ireland) (No. 2), Com. cl. 8, Amend. [142] 1758

Medical Profession, Com. [141] 345

Militia and the Foreign Legions, [142] 800

Militia, Mutiny in an Irish Regiment of, [143] 557, 682

Militia Pay, Com. [143] 860

Militia, The Irish, Disembodiment of, [141] 565; [142] 266, 1408

Navy Estimates, [140] 582; [142] 1458

Peace Preservation (Ireland) Com. [142] 1575; cl. 3, 1578

Prisons (Ireland) Com. [143] 114; cl. 3, 115; cl. 4, 116

Russia, War with—The Armistice, [140] 223

Sandhurst, Military College at, [142] 588

Supply—Post Office Services, [140] 865, 866, 1671;—Royal Parks, Pleasure Grounds, &c. [141] 236;—Audit of Public Accounts, 258;—Public Education, (Ireland), 527;—

Superannuation Allowances, 1034;—Infirmaries (Ireland), 1042;—Battersea Park, [142] 1035;—Embankment, &c., Vauxhall

and Battersea Bridge, 1036;—Incumbered Estates Commission (Ireland), 1048;—Dis-

embodied Militia, [143] 295

Transportation, Com. [141] 869

Durham, Bishop of—see London and Durham, Bishops of, Retirement Bill

Dwellings for Labouring Classes (Ireland) Bill,

c. 1R.* [140] 716;

2R. [140] 1857; Adj. moved (Mr. Kennedy), [A. 11, N. 104, M. 93], 1858; Adj. moved (Mr. McEvoy), *ib.*; Motion neg. 1859;

[141] Com. 1786; Amend. (Mr. Kennedy), 1788; Amend. withdrawn, 1792;

cl. 1, Amend. (Col. Greville), [o. q. A. 169, N. 41, M. 128] 1793;

cl. 2, 1793; Amend. (Mr. L. Davies), 1794, [A. 53, N. 174, M. 121] 1798; [r. p. A. 24, N. 159, M. 135] *ib.*;

[142] [m. q. A. 183, N. 27, M. 156] 1861;

add. cl. (Colonel Greville), [A. 39, N. 154, M. 115] 1862;

VOL. CXLIII. [THIRD SERIES.] [cont.]

Dwellings for Labouring Classes, &c.—cont.

[142] *add. cl.* (Col. Greville), [A. 107, N. 91, M. 16] 1864;

3R. Amend. (Col. Greville), 2158, [o. q. [A. 85, N. 19, M. 66] 2159

[143] l. 1R.* 1; 2R.* 306;

3R. 543, Amend. (Marquess of Westmeath), 544, [o. q. Content 25, Not Content 13, M. 12] 546

Royal Assent, 1064

Dwellings for Labouring Classes (Ireland) (No. 2) Bill,

c. Leave, [143] 1064; 1R.* *ib.*

East India Company—Voluntary Payments,

l. Question (Marquess of Clanricarde), [143] 7

c. Question (Mr. Otway), [143] 264

Eastern Question—Alleged Discrepancy,

l. Question (Earl Grey), [140] 513

EBRINGTON, Viscount, *Marylebone*

Army Estimates, [140] 2068, 2081, 2089

Billeting (Scotland), [141] 578

* British Museum—Sunday Opening, [140] 1102

Civil Service, Admissions to the, Com. moved for, [141] 1434

Medical Profession, Com. [141] 341, 350

Police (Counties and Boroughs), Com. cl. 2, [141] 1585; cl. 10, 1940; cl. 6, [142] 303

Poor Law Amendment, Leave [141] 437

St. James's Park, Com. moved for, [140] 1391

Ecclesiastical Commission,

c. Com. moved for (Sir G. Grey), [140] 973

Ecclesiastical Commissioners—Supply,

c. [142] 856, [A. 166, N. 66, M. 100] *ib.*

Ecclesiastical Courts, &c., Bill,

c. 1R.* [143] 549

Ecclesiastical Courts Jurisdiction Bill,

c. Leave, [140] 384; 1R.* 451

Ecclesiastical Courts, Reform of the,

c. Question (Mr. Hadfield), [142] 1227; [143] 679

Edinburgh, University of.

c. Question (Mr. Cowan), [143] 332

Edmonton Militia,

c. Question (Mr. Evelyn), [140] 1575

Education Bill,

l. 1R.* [140] 698;

Question (Bishop of Oxford), [141] 1143

Education at Sandhurst College,

c. Question (Mr. Rich), [143] 268

Education Estimates.

c. Question (Sir J. Pakington), [142] 1107

Education, Legal,

- c. Question (Mr. Napier), [141] 2030

Education National,

- l. Question (Earl of Shaftesbury), [141] 35
 c. Observations (Sir J. Pakington), [140] 101, 1231; Motion (Lord J. Russell), 1955; Com. [141] 779; Res. (Lord J. Russell), 780; Amend. (Mr. Henley), 799; Adj. moved (Mr. Barnes), 865; Adj. Debate, 889; That the Chairman leave the Chair, [A. 260, N. 158, M. 102] 960; Question (Mr. W. Ewart), 1925

Education, National—Supply,

- c. [142] 1343; Amend. (Mr. Barnes), 1364; Amend. neg. 1388

Education, Public—Supply,

- c. [141] 523

Education (Ireland),

- c. Papers moved for (Mr. Macartney), [141] 435; Address moved (Mr. Walpole), [142] 1580; Amend. (Mr. Kennedy), 1600; Amend. neg. 1603; Adj. moved (Mr. De Vere), 1647, [A. 32, N. 184, M. 152] *ib.*; [m. q. A. 113, N. 103, M. 10] *ib.*; The Queen's Reply, 1992; Question (Mr. Fortescue), 1665; (Mr. Walpole), 1685; Res. (Mr. Fortescue), 1807; Amend. (Mr. Grogan), 1881; Adj. moved (Visct. Bernard), 1882, [A. 50, N. 331, M. 281] 1883; Adj. moved (Mr. Vance), *ib.*, [A. 39, N. 328, M. 289] 1886; Amend. (Mr. Grogan), [A. 95, N. 279, M. 184] *ib.*

Education, Public (Ireland)—Supply,

- c. [141] 525; Amend. (Mr. W. Williams), 527; Amend. (Mr. Vansittart), 541; Amend. withdrawn, 542, [A. 38, N. 144, M. 106] *ib.*; Amend. (Mr. Mowbray), [A. 41, N. 126, M. 85] 543

Education (Scotland) Bill,

- l. 1R.* [140] 1930

Education (Scotland) Bill,

- c. Leave, [141] 663; 1R.* 703

Education, Vice President of Committee of Council on, Bill,

- l. 1R. [140] 449; 2R. 814; 3R.* 977
 c. 1R.* [140] 1811; 2R. [143] 991; Amend. (Mr. Hadfield), 992; Amend. neg. 993; Com. *cl.* 1, 1055, [r. p. A. 80, N. 91, M. 61] 1058; Amend. (Mr. Thornely), [o. q. A. 78, N. 47, M. 31] 1060; 3R. 1209; Amend. (Mr. Henley), 1210; [o. q. A. 77, N. 85, M. 42] 1218; Bill passed, *ib.*
 l. Royal Assent, [143] 1491

EGERTON, Sir P. M. G., Cheshire, S.

- Police (Counties and Boroughs), Com. *add. cl.* [142] 309

EGERTON, Mr. E. C., Macclesfield

- Scientific and Literary Society, Com. [143] 226

EGERTON, Mr. W. T., Cheshire, N.

- Agricultural Statistics, 2R. [142] 1771

EGLINTON, Earl of

- Abjuration, Oath of, Amendment, Com. [142] 2060
 Bank Charter Act, Commission moved for, [141] 551, 560
 Judges, Scotch, Privileges of, [141] 763
 Mail Service, Irish, [141] 1592
 Mutiny, 2R. [140] 2226
 Parliament, Houses of—Clock Tower, [140] 806, 808
 Peace Preservation (Ireland), Com. [142] 779

ELCHO, Lord, Haddingtonshire

- Army Estimates, [142] 1723, 1726
 Crimea, Return of Troops from the [142] 1095, 1097
 Medical Profession, Com. [141] 343, 351
 National Gallery, Com. *cl.* 1, Amend. [141] 1946
 National Gallery Site, 2R. Amend. [142] 1393
 National Gallery, Site of the, Address moved, [142] 2097, 2117, 2146, 2153
 St. James's Park [141] 1188;—(Supply), [142] 1560, 1569
 Simpson's Crimean Sketches, [142] 111
 Supply—National Gallery [141] 610, 614;—British Museum, 1358

Elections, Corrupt Practices at,

- c. Question (Mr. H. Berkeley), [140] 383; (Sir F. Kelly), [142] 553;—see *Corrupt Practices Prevention Bill*

ELGIN, Earl of

- Canada, Troops to, [141] 1142
 Central America, [142] 310
 North American Provinces, Military Establishments in the, Address moved, [142] 673

ELLENBOROUGH, Earl of

- Abjuration, Oath of, Amendment, Com. [142] 2060, 2062
 Agricultural Statistics, 2R. [140] 2222; Com. [141] 461; *cl.* 2, 463; *cl.* 7, 464, 465; *cl.* 12, *ib.*
 Australia, Postal Communication with, [141] 1688
 Coast-Guard Service, Com. [143] 1194, 1199
 Coorg, the Rajah of, [143] 1067
 Crimean Commission Report—Board of Inquiry, [140] 1019
 East India Company—Voluntary Payments, [143] 9
 Education, Vice President of Committee of Council on, 2R. [140] 819, 828
 Gloucester and Bristol, Bishopric of, [142] 1153
 India—Case of Pertaub Singh and Bishe Singh, [143] 619, 624
 India, Government of, Com. moved for, [142] 319
 India, Torture in, [141] 1144, 1145
 Indian Accounts, Returns moved for, [142] 623 630

ELLENBOROUGH, Earl of—cont.

Indian Finance, Papers moved for, [141] 637, 639
 Ismail and Reni, Dismantling of, [143] 1083
 Kars, Fall of, [140] 2095; [141] 29, 30
 Legion of Honour, The, [143] 1350, 1351
 Madras, Torture in, Res. [141] 988
 Militia, Mutiny in an Irish Regiment of, [143] 1347
 Mutiny, 2R. [140] 2224
 Nawab of Surat Treaty, 2R. [143] 384, 393, 394
 Oude, Treaty of, [141] 776, 777, 778
 Peerages for Life, Com. [140] 597, 604
 Police (Counties and Boroughs), Com. cl. 1, [142] 1673; cl. 13, 1674; cl. 14, 1675; 3R. 2048, 2050
 Portraits, National Gallery of, [140] 1782

ELLESMERE, Earl of

Peace, Treaty of, Address moved, [141] 1947, 2006

ELLICE, Rt. Hon. E., Coventry

Army, Sale of Commissions in the, Com. moved for, [140] 1807; Education of Officers, [142] 1009
 Billeting (Scotland), [141] 573
 Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 926
 Education, National, Com. [141] 804
 Moneys, Public, Com. moved for, [141] 1484

ELLICE, Mr. E., Cupar, St. Andrews, &c.

Army Estimates, Amend. [142] 1718, 1725
 Evictions (Ireland)—Case of Mr. Pollok, Com. moved for, [141] 1716; [142] 708
 Supply—Board of Fisheries (Scotland) [142] 884

ELLIOT, Hon. J. E., Roxburgshire

Billeting (Scotland), [141] 584
 China Seas, Operations in the, [140] 458
 Medical Profession, Com. [141] 346
 Municipal Reform (Scotland), 2R. [141] 21

Embassies and Missions Abroad—Supply,
 c. [141] 1028

Embassy Houses Abroad—Supply,

c. [142] 1038; Amend. (Mr. Whiteside), 1039; Amend. and Original Question withdrawn, 1045; [143] 272

Emigration—Supply,

c. [141] 1010

Enfield Factory Expenses,

c. Observations (Mr. Newdegate), [141] 177

Enfield Rifles,

c. Question (Sir W. Jolliffe), [140] 1954

Engineers in the Crimea,

c. Observations (Capt. L. Vernon), [143] 645

Engineers, Promotion in the,

c. Question (Capt. L. Vernon), [143] 271

Episcopal and Capitular Estates Bill,

c. Leave, [140] 121; 1R.* 182; 2R.* 1012

Episcopal and Capitular Estates Continuance Bill,

c. 1R.* [143] 525; 2R.* 549; 3R.* 733
 l. 1R.* [143] 812; 2R.* 946; 3R.* 1063
 Royal Assent, [143] 1490

Established Church (Ireland),

c. Observations (Mr. Stafford), [142] 712; Com. moved for (Mr. Miall), 715, [A. 93, N. 163, M. 70] 770

Estates. Leases and Sales of Settled, Bill,

[140] l. 1R.* 1;
 . 2R. 215;
 . Com. 2096; 3R.* 2202
 [141] c. 1R.* 835;
 [143] 2R. Amend. (Mr. S. Fitzgerald), 945; Amend. neg., 946;
 . Com. add cl. (Mr. Hadfield), 1048, [A. 84, N. 42, M. 42] 1055;
 . 3R.* 1200
 . Lords Amends, 1481
 [143] l. Commons Amends., 1480, [Content 10, Not Content 6, M. 4] ib.
 . Royal Assent, 1491

Estimates, Appropriation of the,

c. Statement (Mr. H. Baillie), [141] 181

"Europa," Loss of the,

c. Question (Capt. Archdall), [143] 1114

EVANS, Lieut. Gen. Sir DE LACY, Westminster

Address in Answer to the Speech, [140] 83
 Army Chaplains, [141] 878
 Army—Sale of Commissions in the, Com. moved for, [140] 1791, 1849; Education of Officers, [142] 1011
 Army Estimates, [140] 1221, 1261; [142] 1537, 1712, 1714
 Ballot, The, Leave, [142] 445
 Bands in the Parks on Sundays, [141] 1912
 Commissions of Deceased Officers, Address moved, [142] 1518, 1531
 Crimean Army, Mortality in the, [140] 220
 Crimean Commission Report, [140] 1407, 1409, 1574, 1628, 1649, 1669; Explanation, 1702, 1707
 Dowbiggin, Major, Case of, [140] 2109
 Edmonton Militia, [140] 1580
 Foreign Legion, The, [143] 1035
 Graves of Soldiers in the Crimea, [140] 2043
 Horses of Officers in the Crimea, [142] 328, 550
 Kars and Ismail, [142] 1496
 Militia, The, [142] 2085
 Persia, Relations with, [141] 165
 Russia, War with—The Armistice, [140] 224
 United States, Relations with the, [140] 472; —The Enlistment, [141] 1001

EVELYN, Mr. W. J., Surrey, W.

Edmonton Militia, [140] 1575
 Justices of the Peace Qualification, Com. cl. 11, [142] 478
 Mortars, Defective, [141] 1340
 Police (Counties and Boroughs), 2R. [140] 696; Com. cl. 1, [141] 1578
 Supply—Battersea Park, [142] 1035

Evictions in Galway — Case of Mr. Pollok,

c. Com. moved for (Mr. M'Mahon), [141] 1707;
Amend. (Visct. Palmerston), 1715; Observations (Sir M. S. Stewart), [142] 697

Evidence in Foreign Suits Bill,

l. 1R.* [143] 1; 2R.* 306; 3R.* 490
c. 1R.* [143] 733; 2R.* 965; 3R.* 1424
l. Royal Assent, [143] 1491

EWART, Mr. J. C., Liverpool

Armistice, The—Cargoes to Russian Ports, [140] 717
Joint-Stock Companies, Com. cl. 58, [142] 646
Russia, Trade Regulations with, [141] 778
Shipping, Local Charges on, Com. moved for, [141] 218
Shipping, Local Dues on, 2R. [140] 202, 1374
Talbot v. Talbot, Case of, Papers moved for, [140] 1551
United States, Relations with the, [143] 15
Vaccination, 2R. [141] 274
West Indies, Geological Survey, [143] 508

EWART, Mr. W., Dumfries, &c.

Army Estimates, [140] 1758; [141] 189, 193
Billeting (Scotland) [141] 572
Business of the House, [140] 247
Capital Punishment in the Colonies, [143] 976
Civil Service, Admissions to the, Com. moved for, [141] 1430
*Death, Punishment of, Com. moved for, [142] 1231
Diplomatic Service, [140] 522
Education, National, Com. [141] 819; 1925
Fire Insurances, Com. cl. 2. [142] 397
Greece, [141] 384
Imperial Hotel Company, 2R. [140] 1701
Import Duties—Newfoundland—Gold Coast, [141] 44
Justices of the Peace Qualification, 2R. [140] 1444
Laws, Amendment of the, Res. [140] 659
Municipal Reform (Scotland), Leave, [140] 612; 2R. [141] 19, 21
Mutiny, 2R. [140] 1672
National Collections of Art and Science, [141] 151
Partnership Amendment (No. 2), Com. cl. 3, [143] 372
Printing Expenses—Returns, [141] 387
Scientific and Literary Societies, Com. [143] 227
Statutes at Large, [140] 992
Supply—Royal Parks, Pleasure Grounds, &c. [141] 229;—National Gallery, 613;—Embassies, &c. 1030, 1032;—Education, [142] 1354
Turkish Roads, [140] 1409

EXCHEQUER, CHANCELLOR of the, see CHANCELLOR of the EXCHEQUER**Exchequer Bills Funding Bill,**

c. 1R.* [140] 1406; 2R.* 1430; 3R.* 1699
l. 1R.* [140] 1770;
2R. 1931; 3R. 1950
Royal Assent, [140] 2033

Exchequer Bills—Supply,

c. [141] 548

Exchequer Bills (£21,182,700) Bill,

c. 1R.* [141] 870; 2R.* 999; 3R.* 1105
l. 1R.* [141] 1140; 2R.* 1144; 3R.* 1587
Royal Assent, [141] 1688

Exchequer Bills (£4,000,000) Bill,

c. 1R.* [142] 1906; 2R.* 1987; 3R.* [143] 12
l. 1R.* [143] 110; 2R.* 306; 3R.* 490
Royal Assent, [143] 710

Exchequer, Court of Scotland) Bill,

c. 1R.* [141] 1908; 2R.* [142] 325; 3R.* 2071
l. 1R.* [143] 1; 2R.* 383; 3R.* 540
Royal Assent [143] 1064

Excise Bill,

c. 1R.* [142] 797; 2R.* 851; 3R.* 1161
l. 1R.* [142] 1219; 2R.* 1570; 3R.* 1771
Royal Assent [143] 1

Executions, Public

c. Question (Lord H. Lennox), [141] 278

EXETER, Bishop of

Burial-Ground—Great Torrington [142] 2065, 2068, 2069
Burial-Grounds, Unconsecrated, [140] 809
*Church Discipline, 2R. [141] 1272, 1277, 1282
Church Rates, [140] 1930
London and Durham, Bishops of, Retirement, 2R. [143] 826
Marriage Law Amendment, 2R. [141] 1526

Exiles, Political,

c. Question (Mr. T. Duncombe) [143] 1218

Factories Bill,

c. Leave, [140] 1673; 1R.* ib.;
2R. [141] 351; Amend. (Mr. Cobbett), 368;
Adj. moved (Col. Dunne), [A. 9, N. 193, M. 189] 377; Adj. Debate, 443; Amend. neg. 445;
Com. [142] 556; Amend. (Mr. Cobbett), 557, [o. q. A. 207, N. 50, M. 157] 559;
cl. 4, Amend. (Mr. Cobbett), 559, [o. q. A. 169, N. 33, M. 136] 563;
add. cl. (Mr. Cobbett), 564; cl. neg. 566;
3R.* 797
l. 1R.* [142] 850;
2R. 1668;
Com. cl. 4, 1893; 3R.* 2048
Royal Assent, [143] 1

Factories, Inspectors of. &c.—Supply,

c. [141] 252; Question (Mr. Hardy), [142] 553

FAGAN, Mr. W. T., Cork

Maynooth College, Com. [141] 1073
Ministers' Money (Ireland), Com. moved for, [140] 999, 1009
Ministers' Money (Ireland), 2R. [141] 1139
Tralce and Killarney Savings Banks, Com. moved for, [142] 775

Falkland Islands—Supply,

c. [141] 1009

FEILDEN, Mr. M. J., Blackburn

Bleaching, &c., Works (No. 2), 2R. [143] 224

FELLOWES, Mr. E., Huntingdonshire

Agricultural Statistics, 2R. [142] 1771

FENWICK, Mr. H., Sunderland

Cambridge University and Town, 2R. Amend. [140] 831

Coalwhippers (Port of London), 2R. [142] 1729

Shipping, Local Charges on, Com. moved for, [141] 211

FERGUS, Mr. J., Fifeshire

Supply—Board of Fisheries (Scotland), [142] 882

FERGUSON, Sir R., Londonderry

Dwellings for Labouring Classes (Ireland), Com. [141] 1792

Grand Jury Assessment (Ireland), Com. cl. 7, Amend. [142] 617; cl. 9, Proviso, 618

Judicial Bench (Ireland), Returns moved for, [140] 802

Justices of Peace Qualification, Com. cl. 3, [141] 1106; cl. 7, 1110

Lunatic Asylums (Ireland) (No. 2), Com. cl. 4, [142] 1764

Supply—Agricultural Statistics, [142] 1112

FERGUSON, Mr. J., Carlisle

Carlisle Canonries, Leave, [140] 895

Crimean Army—The Commissariat, [140] 382

FERGUSON, Sir J., Ayrshire

Army Estimates, [140] 1761; [142] 1559

Billeting (Scotland), [141] 572

Crimean Commission Report, [140] 1052

German Legion, The, [140] 1048, 1228; [143] 1034

Graves of Soldiers in the Crimea, [140] 2040

Guards, Reduction of the, [143] 862

Parishes, Formation of, 2R. [140] 688

Parochial Schools (Scotland), 2R. [141] 1586; [142] 632, 886, 888; Com. 1469

St. James's Park, [141] 1187

Supply—Theological Professors (Belfast), [141] 597

Voters, Registration of (Scotland), Com. [142] 1682

Fermoy Peerage,

l. Statement (Earl of Derby), [140] 448, 698

FEVERSHAM, Lord

Agricultural Statistics, Com. cl. 1, [141] 462

Finance Accounts, Annual,

c. Question (Mr. Michell), [143] 1220

Financial Statement—Ways and Means,c. Com. [140] 1228;—*The Budget*, Res. (Chancellor of the Exchequer), [142] 329**Fire Insurances—French Offices,**

c. Question (Mr. Scholefield), [140] 718; (Mr. Palk), 885

Fire Insurances,

c. Com. moved for (Chancellor of the Exchequer), [141] 333

Fire Insurances Bill,

c. 1R.* [141] 384;

2R. 1374; Amend. (Mr. Wilkinson), [141] 1375; Adj. moved (Mr. Kinnaird), 1377; Adj. Debate, 1944, [c. q. A. 133, N. 31, M. 102] 1945;

Com. [142] 387; Amend. (Mr. Vansittart), [c. q. A. 172, N. 31, M. 141] 395;

cl. 2, [142] 395, [A. 143, N. 54, M. 89] 399; add. cl. (Mr. Hadfield), 399; cl. neg. ib.;

3R.* [142] 588

l. 1R.* [142] 621;

2R. [142] 672; 3R.* 850

Royal Assent, [142] 949

Fireworks (Dublin and Edinburgh).c. Address moved (Mr. Grogan), [141] 1468;—*In the Parks*, Question (Lord Hotham), 1707**FITZGERALD, Rt. Hon. J. D. (Attorney General for Ireland), Ennis**

Bank Frauds, [143] 1034

Bankruptcy and Insolvency (Ireland), 2R. [142] 2157

Chancery, Court of Appeal, (Ireland), Com. cl. 3, [143] 507, 508

Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), Leave, [140] 184; 2R. 590, 591, 931, 959, 960, 970; Appointment of Com. 1426, 1427, 1423

Chancery, Court of (Ireland), (Receivers) Com. cl. 1, [143] 505, 506

Dublin Metropolitan Police, 2R. [142] 1217

Dwellings for Labouring Classes (Ireland), Com. cl. 2, [141] 1794, 1797; add. cl. [142] 1663

Evictions in Galway—Case of Mr. Pollok, Com. moved for, [141] 1717

Grand Jury Assessment (Ireland), Com. cl. 7, [142] 618; add. cl. 619

Grand Jury Cess—County of Mayo, [142] 1086

Hinds, Miss, Murder of, [142] 279

Incumbered Estates Court (Ireland), [142] 1162; 2R. [143] 376, 378; Com. add. cl., 488, 489, 490; 3R. add. cl. 616

Judgments Execution, Com. [143] 207, 537

Juries (Ireland), 2R. [140] 970, 971; [141] 1469

London and Durham, Bishops of, Retirement, [143] 1363

Lunatic Asylums (Ireland), (No. 2) Com. cl. 3, [142] 1760, 1762

Ministers' Money (Ireland), 2R. [141] 1128

Nisi Prius, Clerks in, (Dublin), [142] 1230

Peace Preservation (Ireland), Com. cl. 2, [142] 1577

Poor Law (Ireland), 2R. adj. moved, [142] 1665

Rolls, Master of the, and the Attorney General for Ireland, [143] 404, 655, 658, 709, 736, 740; Explanation, 866, 895

[cont.]

FITZGERALD, Rt. Hon. J. D.—cont.

Sadleir, James, Expulsion of, [143] 1898
 Sligo Election Committee, [142] 1095
 Spirit Trade (Ireland), 2R. [142] 1328
 Supply—Nonconforming, &c., Ministers (Ireland), [141] 1243; — Incumbered Estates Commission (Ireland), [142] 1047, 1049
 Talbot v. Talbot, Case of, Papers moved for, [140] 1558
 Tipperary Bank, [142] 1164; — Mr. James Sadleir, [143] 382, 400

FITZ-GERALD, Lieut.-Gen. Sir J. F., Clare Co.

Army, Sale of Commissions in the, Com. moved for, [140] 1809
 Nawab of Surat Treaty, Rep. [142] 1315
 Spanish Bonds, [143] 1234, 1238

FITZGERALD, Mr. W. R. S., Horsham

Chancery, Court of, (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 590; Amend. 915, 970; Appointment of Com. Amend. 1427
 Civil Service Superannuation Fund, Com. [143] 1047
 County Courts Acts Amendment, Com. cl. 21, [143] 696
 Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1059
 Estates, Leases and Sales of Settled, 2R. [143] 945
 Hospitals (Dublin), Com. cl. 14, Amend. [143] 973
 Incumbered Estates (Ireland), 2R. [143] 379
 Joint-Stock Companies, Winding-up Act Amendment, 2R. [142] 666; Amend. 1146, 1147, 1149
 Juries (Ireland), 2R. [141] 1469
 Peace, Treaty of, Address moved, [142] 77
 Sadleir, James, Expulsion of, [143] 1403
 Supply—Poor Laws, [141] 252; — General Board of Health, 1872
 Transportation, Com. moved for, [141] 426
 Williams, Sir W. F., Queen's Message, Address moved, [142] 290

FITZROY, Rt. Hon. H., (Chairman of Committees), Lewes

County Courts Acts Amendment, Rep. cl. 30; [143] 996; 3R. add. cl. 1205, 1206
 Estates, Leases and Sales of Settled, Com. add. cl. [143] 1050
 Imperial Hotel Company, 2R. [140] 1699
 Indian Budget, The, Com. [143] 1120
 Justices of the Peace Qualification, Com. cl. 7, [142] 477
 Morning Sittings, [142] 1462
 Navy Estimates, [140] 586; [142] 1450
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1316, 1319
 Supply—Theological Professors (Belfast), [141] 599; — Emigration, 1014; — Education, [142] 1354

FITZWILLIAM, Earl of

Appellate Jurisdiction, 2R. [142] 794; Com. 917

FLOYER, Mr. J., Dorsetshire.

Pauper, Scotch and Irish, Removal, Leave, [141] 313
 Police (Counties and Boroughs), Com. cl. 1, [141] 1588
 Supply—Convict Establishments, Colonies, [141] 523; — Prisoners, 623

Foreign Legion, The

l. Question (Earl of Donoughmore), [142] 1152
 c. Question (Mr. Otway), [141] 565; (Col. Dunne), 1048; Observations (Col. Gilpin, [142] 798; [143] 1035

Foreign Office—Supply,

c. [141] 251

Forgery Bill,

l. 1R. [143] 1089

FORSTER, Mr. C., Walsall.

Police (Counties and Boroughs), 2R. Amend. [140] 2145; Com. cl. 10, [141] 1938

FORTESCUE, Earl

Burial-Ground—Great Torrington, [142] 2066, 2069
 Intestates Personal Estates, 2R. [143] 493
 Sleeping Statutes, 2R. [142] 1895

FORTESCUE, Mr. C. S., Louth

Abjuration, Oath of, Com. cl. [142] 603
 Cambridge University, Com. cl. 27, [143] 1207; cl. 29, Amend. 1210; cl. 32, 1212, 1213
 Dwellings for Labouring Classes (Ireland), 2R. [140] 1858; Com. cl. 2, [141] 1793; add. cl. [142] 1663
 Education (Ireland), [142] 1665, 1666; Res. 1807
 Grand Jury Assessment (Ireland), 3R. add. cl. [143] 109
 Oxford University, Address moved, [140] 2030

Foschini, Escape of,

c. Question (Mr. Bowyer), [142] 1733

FOX, Mr. W. J., Oldham

Established Church (Ireland) Com. moved for, [142] 755
 Married Women, Rights of, [142] 1282
 Members' Speeches, [143] 1232
 Police (Counties and Boroughs), 2R. [140] 2161; Com. cl. 7, [141] 1933, 1935; cl. 10, 1941; add. cl. [142] 610
 Supply—Theological Professors (Belfast), [141] 596; — British Museum, 1364; — Education, [142] 1379

FREESTUN, Col. W. L., Weymouth,

German Legion, The, [143] 1110

FRENCH, Col. F., Roscommon Co.

Aldershot, Review at, [143] 863
 Bankruptcy and Insolvency (Ireland), 2R. [142] 2158
 Beatson, General, [143] 974, 1247, 1258, 1498
 Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 945

[cont.]

FRENCH, Col. F.—continued.

- Crimea, Return of the Troops from the, [143] 265
 Crimean Commission Report, [143] 1118, 1274
 Dublin Metropolitan Police, 2R. [143] 117
 Grand Juries (Ireland), (No. 2), 2R. [143] 1275
 Grand Jury Assessment (Ireland), Com. cl. 6, [142] 617; add. cl. 619; 3R. add. cl. [143] 109
 Hospitals (Dublin), Com. [143] 970
 Income and Land Taxes, 3R. [143] 1029
 Judgments Execution, Com. Amend. [143] 537, 539
 Judicial Bench (Ireland), Returns moved for, [140] 805
 Lunatic Asylums (Ireland), (No. 2), Com. cl. 3, [142] 1762
 Militia, Disembodiment of the, [141] 1926
 Militia, Mutiny in an Irish Regiment of, [143] 557, 684
 Militia Pay, Com. [143] 861
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1316
 Prisons (Ireland), Com. [143] 114; cl. 3, 115; cl. 4, Amend. 116
 Redan, Attack on the, [141] 170
 Rolls, Master of the, and the Attorney General for Ireland, [143] 403
 Spithead, Naval Review at, [141] 1182, 1399
 Supply—Royal Parks, Pleasure Grounds, &c. [141] 229, 234

French War Medals,

- c. Question (Col. Lindsay), [141] 1048; (Col. North [143] 1496;—see *Legion of Honour*

FREWEN, Mr. C. H., Sussex E.,

- Church Property, [140] 1223
 Supply—Inspectors of Corn Returns, [142] 1029

Friendly Societies, Registrar of—Supply,

- c. [141] 262

GALLOWAY, Earl of

- London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 963
 Naval Review, The, [141] 1475
 Parochial Schools (Scotland), 3R. [143] 1026

GALWAY, Viscount, East Retford

- Fire Insurances, 2R. Adj. moved, [141] 1945
 Poor Law Amendment, 2R. [142] 615
 Poor Law Amendment (No. 2), 2R. [142] 2043; [143] 255

Gaols, &c., Bill,

- c. 1R.* [142] 631

Gardeners, Under, Tax on

- c. Question (Col. Harcourt), [140] 1710

Geographical Society—Supply,

- c. [141] 620

GEORGE, Mr. J., Wexford Co.

- Chancery, Court of (Ireland, (Incumbered Estates Court Abolition), Leave, [140], 212; 2R. 939
 Common Law Courts, (Ireland), [142] 1496

[cont.]

GROGAN, Mr. J.—continued.

- Dwellings for Labouring Classes (Ireland), Com. cl. 1, [141] 1793; cl. 2, 1794, 1795, 1797
 Education (Ireland). Res. [142] 1883
 Joint-Stock Companies Winding-up Acts, Amendment, 2R. [142] 1768
 Judicial Bench (Ireland), Returns moved for, [140] 797
 Juries (Ireland), 2R. [141] 1469
 Peace Preservation (Ireland), 2R. [142] 1393; Com. cl. 2, 1576

German Legion, The,

- c. Question (Sir J. Fergusson), [140] 1048, 1228; [143] 1034; (Major Reed), [140] 1409; (Mr. Murrough), [142] 428; [143] 1108

GIBSON, Rt. Hon. T. M., Manchester

- Abjuration, Oath of, [140] 1220; Leave, 1288; 2R. [141] 703, 722, 1909; Com. cl. 1, [142] 598
 Bay Islands, Colony of, [140] 2112
 Budget, The—Financial Statement, Res. [142] 358
 Business of the House, [141] 2086
 Cambridge University, Rep. cl. 44, [142] 1752
 Central America, [143] 645
 Consolidated Fund Appropriation, Com. [143] 560, 561
 Education, National, [140] 1999, 2003
 Factories, 2R. [141] 369; Com. cl. 4, [142] 560; add. cl. 565
 Fire Insurances, 2R. [141] 1377
 Justices of the Peace Qualification, Com. cl. 11, [142] 478
 Paper Duty, [142] 1327
 Peace, Treaty of, Address moved, [142] 81
 Police (Counties and Boroughs), Com. cl. 1, [141] 1579; cl. 10, 1941
 Rules of the House, [143] 641
 Session, Review of the, Returns moved for, [143] 1470
 Shipping, Local Charges on, Com. moved for, [141] 211; Appointment of Com. 684
 Shipping, Local Dues on, Leave, [140] 176, 2190
 Sound Dues, [141] 180
 Supply—Education, [142] 1364, 1367
 United States, Relations with the, [140] 853; [142] 1404, 1405; [143] 48; Adj. moved, 109, 120, 1221

GILPIN, Col. R. T., Bedfordshire

- Agricultural Statistics, 2R. [142] 1771
 Army Estimates, [140] 1756, 2055, 2067
 Militia and the Foreign Legions, [142] 798, 802, 803; [143] 1035
 Militia Pay, Com. cl. 3, [143] 862
 Militia, The Irish, Disembodiment of, [142] 267
 Supply—Disembodied Militia, [143] 287

Girls, Traffic in, to Hamburg,

- c. Question (Mr. Hildyard), [141] 469

GLADSTONE, Rt. Hon. W. E., Oxford University

- Appellate Jurisdiction, Com. [143] 597
 Bishops (Scotland), [143] 1481
 Budget, The—Financial Statement, Res. [142] 374

[cont.]

GLADSTONE, Rt. Hon. W. E.—cont.

Business, Public, [141] 176
 Cambridge University, Com. *cl.* 39, [142] 1214;
Rep. add. cl. 1741; *cl.* 27, 1746
 Carlisle Canonries, Leave, [140] 897
 Civil Service, Admissions to the, Address
 moved, [141] 1421
 Coalwhippers (Port of London), 2R. Amend.
 [142] 1729
 County Court Judges, Salaries of, Address
 moved, [141] 305; [143] 320
 County Courts Acts Amendment, Com. Amend.
 [143] 684; *cl.* 72 (D) 702, 704; 3R. 1200;
add. cl. 1204
 Crimean Commission Report, [140] 1649
 Dissenters' Marriages, 2R. [140] 1929; Com.
cl. 4, [142] 944, 945, 947
 Ecclesiastical Courts, Reform of the, [143] 680
 Education, National, Com. [141] 926, 941
 Education, Vice President of Committee of
 Council on, 3R. [143] 1210
 Financial Statement—Ways and Means, [140]
 1246
 Greece, State of, [142] 271
 Judges and Chancellors, Leave, [142] 454, 460
 London and Durham, Bishops of, Retirement,
 2R. [143] 1272, 1293, 1326, 1340, 1344,
 1346; Com. *cl.* 1, Amend. 1368, 1371, 1373,
 1375, 1380; *cl.* 3, 1383, 1413; *cl.* 5, 1415;
 Preamble, 1416
 Mathew, Mr. Consul, Explanation, [143] 1488
 Moneys, Public, Com. moved for, [141] 1457
 National Gallery, Com. *cl.* 1, [141] 1946
 New Zealand, Salary of the Bishop of, [143] 326
 Oxford University, Address moved, [140] 2082
 Parishes, Formation of, 2R. [140] 689; Com.
cl. 4, [142] 574; Lords' Amends. [143] 1419
 Peace, Treaty of, Address moved, [142] 92
 Persia, Relations with, [141] 166
 Supply—Royal Palaces and Public Buildings,
 [141] 227, 228;—British Museum, 601;—
 National Gallery, 615, 618;—Civil Contingen-
 cies, [142] 1341
 Tithe Commutation Rent-Charge, 2R. [142] 162
 United States, Relations with the, [141] 475,
 478; [142] 1737; [143] 47, 48, 141

GLENELG, Lord

Peace, Treaty of, Address moved, [141] 1957,
 2006
 Peerages for Life, Com. [140] 907; Motion,
 1121, 1125

Gloucester and Bristol, Bishopric of,

1. Observations (Earl of Ellenborough), [142]
 1158

GLYN, Mr. G. C., Kendal

Bank Charter Act, [140] 222
 Bankers' Compositions, 2R. [141] 1044
 Budget, The, [141] 1928
 Drafts on Bankers, 2R. [141] 439
 Fire Insurances, 2R. [141] 1944; Com. [142]
 389
 Joint-Stock Companies, Com. *cl.* 29, [142]
 640; *cl.* 58, 650
 Monetary System, Com. moved for, [140] 1509
 Navy Estimates, [142] 1462
 Partnership Amendment, 2R. [140] 483
 Partnership Amendment (No. 2), Com. [143]
 340; *cl.* 3, 370; 3R. *cl.* 3, 802
 Public Works, Com. [141] 625

GODERICH, Viscount, Huddersfield

Army—Guards' Memorial, [140] 90
 Army, Sale of Commissions in the, Com. moved
 for, [140] 1795—Education of Officers, [142]
 1019
 Civil Service, Admissions into the, Address
 moved, [141] 1401; Com. moved for, 1430,
 1448; [143] 525, 529
 Health, General Board of, Continuance, Com.
 [143] 995
 Joint-Stock Companies, Leave, [140] 144
 Partnership Amendment, Leave, [140] 144
 Police (Counties and Boroughs), Com. *cl.* 1,
 [141] 1583
 Supply—National Gallery, [141] 615;—British
 Historical Portrait Gallery, [142] 1123
 United States, Relations with the, [141] 473

Gold Coast—Import Duties,

c. Question (Mr. W. Ewart), [141] 44

GORDON, Hon. A., Beverley

"Birkenhead," Loss of the, [143] 1038
 Cambridge University, Com. *cl.* 29, [142] 1210
 Crimean Commission Report, [140] 1646, 1708
 Episcopal Church (Scotland), Biennial Grant
 to, [143] 977
 Reformatory Schools, Com. *add. cl.* [142] 569
 Reformatory and Industrial Schools, Lords
 Amends. [143] 1003

GOSFORD, Earl of

. Address in Answer to the Speech, [140] 5

GOWER, Hon. F. L., Stoke-upon-Trent

Sligo Election Committee, [142] 1094

GRAHAM, Lord M. W., Grantham

Army Estimates, [140] 1757, 2055, 2069;
 [141] 194
 Black Sea, Russian Ships in the, [141] 1910
 Cape of Good Hope, Reinforcements for the,
 [143] 862
 Crimean Commission Report, [140] 452, 980,
 1050
 Supply—Royal Palaces and Public Buildings,
 [141] 227;—Convict Establishments, Colo-
 nies, 528;—British Historical Portrait Gal-
 lery, [142] 1113

GRAHAM, Rt. Hon. Sir J. R. G., Carlisle

Appellate Jurisdiction, [142] 2080; 2R. [143]
 435
 Army—Reduction of Officers, [143] 734
 Baltic Operations in the, Com. moved for,
 [141] 78, 84, 86, 92, 97
 Bleaching, &c., Works, (No. 2), 2R. [143]
 212, 217
 Civil Service Superannuation, Leave, [140] 892
 Coast-Guard Service, 2R. [143] 853
 Consolidated Fund Appropriation, Com. *cl.* 30,
 [143] 562, 564, 567
 County Courts Acts Amendment, Rep. [143]
 995; 3R. *add. cl.* 1204, 1206; *cl.* 10, 1207
 Divorce and Matrimonial Causes, 2R. [143]
 710
 Dwellings for Labouring Classes (Ireland), Com.
cl. 2, [141] 1795, 1797, 1798
 Education, National, Com. [141] 830, 963
 [cont.]

GRAHAM, Rt. Hon. Sir J. G. R.—cont.

- Education, Vice President of Committee of Council on, 3R. [143] 1217
 Factories, Com. *add. cl.* [142] 566
 Incumbered Estates (Ireland), 2R. [143] 375 ;
Com. add. cl. 489 ; 3R. *add. cl.* 616
 Kars, Fall of, Res. [141] 1835, 1861
 London and Durham, Bishops of, Retirement,
 [143] 1171 ; 2R. 1298, 1303, 1319, 1320,
 1321 ; Com. 1361 ; *cl.* 1, 1370
 Marriage Law, Amending, 2R. [142] 2159 ;
 Rep. [143] 997, 998
 Napier, Sir C., at Acre, [141] 460
 Navy Estimates, [142] 1438
 Nawab of Surat Treaty, Rep. [142] 1313
 Partnership Amendment (No. 2), Com. [143]
 346
 Wills and Administration, 2R. [142] 2022,
 2033 ; Com. [143] 302

GRANBY, Marquess of, Leicestershire, N.

- Naval Review, The, [141] 1400, 1560
 Peace, Treaty of, Address moved, [142] 31
 Treaties, Secret, [142] 429

Grand Juries Bill,

- c.* 1R.* [142] 922 ; 2R.* 1401 ; 3R.* 1573
l. 1R.* [142] 1667 ;
 2R. [142] 1966 ; 3R.* [143] 306
 Royal Assent, [143] 710

Grand Juries, &c., (Ireland) Bill,

- c.* Leave, [141] 1444 ; 1R.* 1528 ;
 2R. [143] 1274 ; Motion withdrawn, 1275

Grand Juries (Ireland) Bill,

- c.* 1R.* 2R.* 3R.
l. 1R.* [143] 110 ; 2R.* 490 ; 3R.* 710
 Royal Assent, [143] 1064

Grand Jury Assessment (Ireland) Bill,

- c.* 1R.* [141] 1324 ; 2R.* 1908 ;
 142] Com. *cl.* 6, Amend. (Sir F. Thesiger), 616 ;
 Amend. withdrawn, 617 ;
cl. 7, 617 ; *cl. neg.* 618 ;
cl. 8, [A. 87, N. 71, M. 16] 618 ;
cl. 9, Proviso (Sir R. Ferguson), 618 ;
add. cl. (Sir F. Thesiger) ; Amend. (Mr. I.
 Butt), [o. q. A. 95, N. 42, M. 53] 619 ;
add. cl. (Mr. H. Hamilton), 619 ;
 143] 3R. *add. cl.* (Mr. Fortescue), 109, [A. 32,
 N. 109, M. 77] 110

Grand Jury Cess (Mayo) Bill,

- c.* 1R.* [143] 398

GRANVILLE, Earl (President of the Council)

- Address in Answer to the Speech, [140] 48
 Appellate Jurisdiction of the House of Lords,
 Com. moved for, Amend. [140] 1462
 Appellate Jurisdiction, 2R. [142] 796 ; Com.
 917 ; *cl.* 1, 921 ; Rep. 951 ; 3R. 1077, 1078,
 1081 ; That the Bill do pass, 1082
 Burial-Grounds, Unconsecrated, [140] 813
 Business of the House, Res. [140] 910, 912 ;
 [142] 246, 247
 Crimean Commission Report—Board of In-
 quiry [140] 1020
 Currency, Indian, [141] 1251
 Dalhousie, Marquess of, Pension to, Correspond-
 ence moved for, [142] 209, 214

GRANVILLE, Earl—continued.

- Death Punishment on Women, [142] 1057
 Education, [141] 36, 40, 1143
 Education, Vice President of Committee of
 Council on, 1R. [140] 449 ; 2R. 814, 816,
 825
 Fairs and Markets (Ireland), [141] 1701
 Fermoy Peerage, [140] 448, 701
 Gloucester and Bristol, Bishopric of, [142]
 1155
 India, Government of, Com. moved for, [142]
 317
 India, Torture in, Returns moved for, [140]
 1569
 Indian Accounts, Returns moved for, [142]
 624, 631
 Kars, Fall of, [140] 2096 ; [141] 1692, 1693
 Limited Liability, Returns moved for, [141]
 143, 144, 148
 Maritime Law, International, [142] 546
 Naval Review, The, [141] 1387, 1473, 1475
 Parliament, Houses of—Clock and Bells, [140]
 149, 807, 808
 Peace, Treaty of, Address moved, [141] 2013
 Peerages for Life, 280 ; Com. moved for, [140]
 510, 511, 512 ; Com. 598, 598, 604, 605,
 606, 607, 903, 1134, 1143 ; Report, 1289,
 1290, 1309
 Piracy in the Eastern Archipelago, [140] 913
 Police, Metropolitan, 2R. [140] 829
 Prisons, Inspectors of, 20th Report, Address
 moved, [141] 126
 Ticket-of-Leave System, Returns moved for,
 [140] 1401, 1402 ; Address moved, [141]
 1158
 Turnpike Trusts Arrangements, 2R. [140]
 1448
 United States, Relations with the, [142] 949,
 1155
 Vote of Thanks to the Army, Navy, &c. [142]
 201
 Williams, Sir W. F., Message from the Queen,
 [142] 178 ; Address moved, 238

Graveyards, Metropolitan,

- c.* Question (Mr. H. Berkeley), [140] 523 ;—
see Burial Grounds

Greece, State of,

- c.* Question (Mr. W. Ewart), [141] 384 ; Ob-
 servations (Mr. James MacGregor), [142]
 269, 852

GREENE, Mr. T., Lancaster

- Health, Public, Com. [143] 502

GREGSON, Mr. S., Lancaster

- Fire Insurances, Com. [142] 395
 Joint-Stock Companies, Com. *cl.* 5, Amend.
 [142] 635
 London and Durham, Bishops of, Retirement,
 [143] 13
 Partnership Amendment (No. 2), 2R. [142]
 654 ; Com. *cl.* 3, Amend. [143] 365

GREVILLE, Col. F. S., Longford

- Army Estimates, [142] 1558
 Dwellings for Labouring Classes (Ireland), 2R.
 [140] 1857, 1858 ; Com. [141] 1787 ; *cl.* 1,
 Amend 1792 ; *cl.* 2, Amend. [142] 1601 ;
add. cl. 1662, 1664 ; 3R. Amend. 2150

GREVILLE, Col. F. S.—*continued*.

Incumbered Estates Court (Ireland), [142] 1162
 Militia, Disembodiment of the, [141] 1926 ;—
 Gratuity to the [142] 1099
 Peace Preservation (Ireland), Com. [142] 1574 ;
cl. 2, 1578
 St. James's Park, Nomination of Com. [140] 1430 .

GREY, Earl

Agricultural Statistics, Com. [141] 455, 461
 Appellate Jurisdiction, 2R. [142] 789
 Army, Administration of the, Papers moved for, [140] 1045
 Bank Charter Act, Commission moved for, [141] 563
 Business of the House, Res. [140] 910 ; [142] 246
 Coal Explosion in Glamorganshire, [143] 1113
 Crimean Commission Report—Board of Inquiry, [140] 1019, 1020
 Eastern Papers—Alleged Discrepancy, [140] 513, 921
 Education, Vice President of Committee of Council on, 2R. [140] 820
 Exchequer Bills Funding, 2R. [140] 1931
 Limited Liability, Returns moved for, [141] 146
 Maritime Law, International, [142] 540
 Marriage Law Amendment, 2R. [141] 1525
 Mercantile Law Amendment, 2R. [142] 181
 Mutiny, 2R. [140] 2226
 North American Provinces, Military Establishments in the, Address moved, [142] 694
 Peace, Treaty of, Address moved, [141] 2023
 Peerages for Life, [140] 355, 362, 449 ; Com. moved for, 509, 510 ; Com. 600, 604, 906 ; Amend. 1170, 1176 ; Report, 1306
 St. James's Park, [141] 770
 Tickets of Leave—Secondary Punishment, Address moved, [141] 1162, 1164, 1472
 Truro, Lord, Library of the late, [141] 132
 Vote of Thanks to the Army, Navy, &c. [142] 202

GREY, Rt. Hon. Sir G. (Secretary of State for the Home Department). *Morpeth*

Aggravated Assaults, 2R. [142] 169
 Appellate Jurisdiction, [143] 510 ; Rep. 553
 Archer, Miss, Assault on, [142] 327
 Assistant Judge, Middlesex Sessions, [142] 268
 Bible, Authorised Version of the, Address moved, [143] 1225
 Billeting (Scotland), [141] 578
 "Birkenhead," Loss of the, [143] 1039
 Bleaching Works (No. 2), 2R. [142] 1053 ; [143] 215
 Business of the House, [141] 2035 ; [142] 1686
 Cab Proprietors, Liability of, [143] 320
 Cambridge University, Com. *cl.* 38, [142] 1214 ; *cl.* 39, *ib.*
 Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), Appointment of Com. [140] 1429
 Charities, 2R. [143] 966 ; Com. *cl.* 1, 1060
 Church Building Commission, Com. [143] 306 ; 3R. 337
 Church Rates, [140] 2110
 Church Rates (No. 1), [141] 1706
 Church Rates (No. 2), 2R. [140] 1896, 1915, 1927, 1928 ; [142] 475

GREY, Rt. Hon. Sir G.—*cont.*

Convict Hulks, [142] 1402
 Corrupt Practices, Prevention, Com. [143] 988, 990
 County Court Judges, Salaries of, Address moved, [141] 291, 304
 County Courts, [140] 152
 County Courts Acts Amendment, Com. [143] 688 ; *cl.* 72 (D) 703 ; Rep. 995 ; 3R. 1202
 Death, Punishment of, Com. moved for, [142] 1249
 Dissenters' Marriages, 2R. [140] 1929
 Dublin Metropolitan Police, 2R. [142] 1218
 Dulwich College, [143] 1033
 Ecclesiastical Commission, Com. moved for, [140] 973
 Ecclesiastical Courts, Reform of the, [143] 680
 Education, [140] 104
 Education Estimates, [142] 1108
 Education, Legal, [141] 2030
 Education, National, Com. [141] 914, 1926
 Education, Vice President of Committee of Council on, 2R. [143] 991 ; Com. *cl.* 1, 1055, 1056, 1058, 1060 ; 3R. 1213
 Executions, Public, [141] 278
 Exiles, Political, [143] 1219
 Factories, Leave, [140] 1673 ; 2R. [141] 370 ; Com. [142] 558 ; *cl.* 4, 561, 563
 Factory Inspectors, [142] 553
 Fisheries (Ireland), Com. moved for, [142] 1296
 Foschini, Escape of, [142] 1735
 Girls, Traffic in, to Hamburg, [141] 470
 Grand Juries (Ireland), (No. 2), 2R. [143] 1275
 Graveyards, Metropolitan, [140] 523
 Joint-Stock Companies Winding-up Acts Amendment, 2R. [142] 667
 Judicial Bench (Ireland), Returns moved for, [140] 779, 790, 793
 Justice, Public, Department of, [143] 119
 Justices of the Peace Qualification, 2R. [140] 1440 ; Com. *cl.* 11, [142] 478 ; *cl.* 14, 480
 Lampeter College, [141] 468
 Laws, Amendment of the, Res. [140] 647 ; Amend. 667
 London and Durham, Bishops of, Retirement, 2R. [143] 1339, 1343 ; Com. *cl.* 1, 1369 ; *cl.* 3, 1410, 1412, 1413 ; Preamble, 1416 ; 3R. 1429
 London Corporation, Leave, [141] 314, 332 ; [142] 1993 ; [143] 398
 Lunatic Asylums (Ireland), (No. 2), Com. *cl.* 8, [142] 1765
 Masters and Operatives, Com. moved for, [140] 985
 Medical Profession, 2R. [140] 1014 ; Com. [141] 339, 344, 347, 761
 Naval Review, The, [141] 1399
 New Zealand, Salary of the Bishop of, [143] 830
 Night Coffee Shops, [141] 2030
 Offences, Trial of, 2R. [140] 1769, 1770
 Oxford University, Address moved, [140] 2022, 2026
 Oxford University Statutes, [141] 467, 468
 Parishes, Formation of, 2R. [140] 687 ; Com. *add. cl.* [143] 554
 Peace Preservation (Ireland), 2R. [142] 1399 ; Com. 1573 ; Rep. 1684
 Perth and Melfort's, Earl of, Compensation Rep. [142] 1817
 Physicians, College of, [141] 872 ; [143] 733

{*cont.*}{*cont.*}

GREY, Rt. Hon. Sir G.—*cont.*

Police (Counties and Boroughs), Leave, 229, 140] 240, 243, 244, 245; 2R. 691, 694, 695, 697, 2113, 2150, 2187;
 141] Com. cl. 1, 1565, 1566, 1570, 1583, 1584; cl. 2, *ib.*, 1585; cl. 3, 1929; cl. 5, 1930; cl. 6, 1981; cl. 7, 1932, 1934; Amend. 1935; cl. 8, 1936; cl. 10, 1939; cl. 11, 1942, 1943;
 142] cl. 6, 293, 294, 295, 298, 300, 301, 307; cl. 12, 308; *add. cl.* 309; Rep. *add. cl.* 605, 608, 612, 613
 Police, Metropolitan, Leave, [140] 178; 2R. 262; Com. 447; 3R. 473
 Poor Law Amendment (Scotland), 3R. [143] 811
 Postage Labels, Com. moved for, [142] 1296
 Prisons, Inspection of, [140] 382; Management of, [141] 878
 Prisons (Ireland), Com. cl. 4, [143] 116
 Prisoners for Debt, [142] 554
 Reformatory Schools, Juvenile, [140] 94, 95, 101
 Reformatory Schools, [141] 385, 874; [142] 1161, 2073
 Reformatory Schools, Com. *add. cl.* [142] 566, 567, 568, 571, 573, 574
 Reformatory Schools (Scotland), 2R. [141] 12
 Reformatory and Industrial Schools, Lords Amends. Amend. [143] 1003, 1004
 Rolls, Master of the, and the Attorney General for Ireland, [143] 738
 Sabbath, Observance of the—Shaving on Sundays, [140] 1052, 2036
 Sadleir, James—The Tipperary Bank, [143] 644
 St. James's Park, Road through, [140] 150; Com. moved for, 1392
 Somner, Celestina, Case of, [142] 428
 South Wales Highway Act, [143] 1033
 South Wales Lunatic Asylum, [141] 180
 Statute Law, Consolidation of the, Leave, [140] 750
 Supply—Inspectors of Prisons, [141] 270;—Convict Establishments, Colonies. 523;—Public Education, 524, 525;—Prisoners, 623;—Education, [142] 1343, 1334;—St. James's Park, 1414
 Thanksgiving, Day of, [141] 1535
 Ticket-of-Leave Men, [140] 151
 Transportation, Com. moved for, [141] 399; Amend. 402, 416, 419, 427, 869
 United States, Relations with the, [142] 1739; [143] 97
 Voters, Registration of (Scotland), Com. [142] 1652
 Williams, Sir W. F., Queen's Message, Address moved, [142] 291
 Women and Children, Assaults on, [140] 152

GROGAN, Mr. E., *Dublin City*

Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), Appointment of Com. [140] 1426
 Coast-Guard Service, 2R. [143] 856
 Commissions of Deceased Officers, Address moved, [142] 1513, 1518
 Dublin Metropolitan Police, 2R. Amend. [142] 1216, 1218
 Education (Ireland), Res. Amend. [142] 1880, 1883
 Fireworks (Dublin and Edinburgh), Address moved, [141] 1468
 Incumbered Estates (Ireland), 3R. *add. cl.* [143] 616

[*cont.*GROGAN, Mr. E.—*continued.*

Lunatic Asylums (Ireland) (No. 2), Com. cl. 3, [142] 1761
 Medical Profession, Com. [141] 351
 Militia, Disembodiment of the, [142] 631
 Postage Labels, Com. moved for, [142] 1293
 Postal Communication (Ireland), [140] 1219
 Roman Catholic Clergy in India, [143] 1384, 1386
 Shipping, Local Charges on, Appointment of Com. [141] 868
 Spirit Trade (Ireland), 2R. [142] 1323
 Supply—Superannuation Allowances, [141] 1038;—National Vaccine Establishment, 1041

GROSVENOR, Rt. Hon. Lord R., *Middlesex*

Army and Militia, Disbanding of the, [141] 2036
 Bands in the Parks on Sundays, [141] 1706, 1911, 1923
 Bleaching, &c., Works (No. 2), 2R. [143] 217
 Education, National, [140] 1985
 Estates, Leases and Sales of Settled, 2R. [143] 945; Com. *add. cl.* 1050; Lords Amends., 1481
 Hampstead Heath, [142] 554
 Masters and Operatives, Com. moved for, [140] 985
 Medical Profession, 2R. [140] 1013; Com. [141] 335
 Reformatory Schools, Juvenile, [140] 98
 Supply—Science and Art Department, Marlborough House Removal, [142] 1124;—St. James's Park, [142] 1134, 1137, 1141, 1414

Guards Memorial, The

c. Question (Major Sibthorp), 1228;—*Entry of into London*, Question (Mr. Noel), [142] 2073; (Sir J. Shelley), [143] 265

GURNEY, Mr. J. H., *King's Lynn*

Dissenters' Marriages, Com. cl. 11, [142] 948
 Joint-Stock Companies, Com. cl. 29, [142] 640
 Reformatory Schools (Scotland), 2R. [141] 18

HADDINGTON, Earl of

Parochial Schools (Scotland), Com. cl. 12, [143] 732; 3R. 1026

HADDON, Lord

Parochial Schools (Scotland), Lords Amends. [143] 1174

HADFIELD, Mr. G., *Sheffield*

Address in Answer to the Speech, [140] 88
 Appellate Jurisdiction, Rep. [143] 553
 Army Estimates, [141] 207, 208
 Budget, The—Financial Statement, Res. [142] 357
 Business, Public, [143] 976
 Charitable Uses, 3R. [140] 1426
 Charities, 2R. [143] 966
 Church Building Commission, Com. Amend., [143] 305; 3R. 337
 Church Rates (No. 2), 2R. [142] 473
 Coast-Guard Service, 2R. [143] 859

[*cont.*

HADFIELD, Mr. G.—*continued.*

Contractors' Disqualification Removal, 2R. [140] 1436
 County Courts Acts Amendment, Com. cl. 5, Amend., [143] 692, 693; 3R. *add. cl.* 1203, 1205
 Crimean Commission Report, [140] 1588
 Criminal Appropriation of Trust Property, [143] 1113
 Crown Lands and Church Extension, [143] 267
 Death, Punishment of, Com. moved for, [142] 1244
 Dissenters' Marriages, Com. cl. 4, [142] 943
 Ecclesiastical Commission, Com. moved for, [140] 977
 Ecclesiastical Courts Jurisdiction, Leave, [140] 394
 Ecclesiastical Courts, Reform of the, [142] 1227; [143] 679
 Education, National, Com. [141] 780
 Education, Vice President of Committee of Council on, 2R. Amend., [143] 992; Com. cl. 1, 1056, 1058; Proviso, 1060; 3R. 1216
 Episcopal and Capitular Estates, Leave, [140] 181
 Episcopal Church (Scotland), [143] 740
 Established Church (Ireland), [142] 714; Com. moved for, 760
 Estates, Leases and Sales of Settled, Com. *add. cl.* [145] 1048, 1054, 1055
 Fire Insurances, Com. moved for, [141] 334; 2R. 1945; Com. [142] 388; cl. 2, 396; *add. cl.* 399
 Hospitals (Dublin), Com. [143] 970
 Judges and Chancellors; Leave, [142] 452
 Judgments Execution, Com. [143] 209
 Justices of the Peace Qualification, 2R. [140] 1442
 London and Durham, Bishops of, Retirement, 2R. [143] 1293, 1344; Com. Amend. 1355, 1368; cl. 3, 1382; cl. 5, 1414; 3R. 1429
 Members' Speeches, [143] 1233
 Mercantile Law Amendment, 2R. [143] 810
 Mines, Rating of, Leave, [141] 1407
 Navy Estimates, [142] 1461
 Parishes, Formation of, 2R. Amend. [140] 686, 689; Com. Amend. [142] 574; cl. 4, Amend. 575; *add. cl.* [143] 554
 Parochial Schools (Scotland), 2R. Amend. [141] 1585
 Peace, Treaty of, Address moved, Amend. [142] 109
 Police (Counties and Boroughs), 2R. Amend. [140] 690, 2187; Com. cl. 10, [141] 1941
 St. James's Park, [141] 1189
 Scientific and Literary Societies, Com. [143] 225
 Session, Review of the, Returns moved for, [143] 1475
 Shipping, Local Charges on, Com. moved for, [141] 218; Appointment of Com. 681
 Shipping, Local Dues on, 3R. [140] 1424
 Statute Law Commission, [141] 872
 Statute Law Consolidation, Address moved, [141] 1467
 Suffragan Bishops, [142] 591
 Supply—Houses of Parliament, [141] 250;—[141] Stationery, Printing, &c., 268;—Public Education, 524;—Education (Ireland), 540;—Theological Professors (Belfast), 592, 599;—West Indies (Governors, &c.), 1005;—Emigration, 1013;—Polish, &c.,

[cont.]

HADFIELD, Mr. G.—*continued.*

[141] Refugees, 1042;—Hospitals (Ireland), 1044;—Nonconforming, &c., Ministers, (Ireland), 1243; Amend. 1244, 1245, 1246;
 [142] Statute Law Commission, 875;—Inspection of Burial-Grounds, 1034;—Embankment, &c., Vauxhall and Battersea Bridges, 1037
 Tithe Commutation Rent-Charge, Leave, [140] 1850; 2R. [142] 164
 United States, Relations with the, [140] 844; [142] 1405
 Wills and Administrations, Com. [143] 305
 HALL, Rt. Hon. Sir B. (First Commissioner of Works), *Marylebone*
 Bands in the Parks on Sundays, [141] 1703, 1705, 1919; [142] 325
 Chelsea Bridge, [142] 1227
 Drainage, Metropolitan, [143] 735
 Hampstead Heath, [142] 554
 Metropolis Local Management Act Amendment, [141] 471
 Metropolis Local Management Act Amendment (No. 2), Lords Amends. [143] 1416, 1417
 Metropolitan Improvements, [142] 550
 Metropolitan Management, [140] 2040
 National Collection of Art and Science, [141] 151
 Parks on Sunday—Sale of Refreshments, [142] 259
 Parliament, House of—The Clock, [141] 150
 Public Offices, [142] 1099
 St. James's Park, Com. moved for, [140] 1388, 1389; Nomination of Com. 1429, 1430; [141] 870, 999, 1184
 Supply—Royal Palaces and Public Buildings, [141] 222, 223, 224, 225, 226, 227, 228;—Buckingham Palace, *ib.*;—Royal Parks, Pleasure Grounds, &c., 229, 230, 231, 232, 233, 236, 238, 239;—New Houses of Parliament, 239, 240, 242, 245, 246;—General Board of Health, 1368, 1369, 1372;
 [142] Battersea Park, 1035;—Embankment, &c., between Vauxhall and Battersea Bridge, 1036, 1037;—Works at Carisbrooke Castle, 1038;—Embassy Houses abroad, 1040, 1042; [143] 275, 276;—St. James's Park, [142] 1137, 1415, 1564
 War Office, The New, [141] 466
 Wellington Monument, The, [141] 1240; Explanation, 1325
 Westminster Bridge, [142] 329, 551

HAMILTON, Rt. Hon. Lord C., *Tyrone Co.*
 Circassia—Mr. Longworth's Mission, [142] 980

Crimean Commission Report, [140] 1666; Explanation, 1706
 Militia, Permanent Staff of the, [141] 1533
 Militia, Irish, Disembodiment of, [143] 733
 Peace, Treaty of, Address moved, Amend. [141] 2099; [142] 123
 St. James's Park, Com. moved for, [140] 1392
 Supply—Disembodied Militia, [143] 282, 291

HAMILTON, Rt. Hon. R. A. N., *Lincolnshire, N.*

Naval Review, The, [141] 1561
 Police (Counties and Boroughs), Leave, [140] 239, 240; Com. cl. 1, [141] 1581

HAMILTON, Mr. G. A., *Dublin University*

Beatson, General, [143] 974
 Civil Service Vacancies, [143] 974
 Decimal Coinage, [143] 974
 Dwellings for Labouring Classes (Ireland), 3R. [142] 2159
 Education (Ireland), Address moved, [142] 1623; Res. 1881
 Established Church (Ireland), [142] 715; Com. moved for, 752, 753
 Hospitals (Dublin), Com. *cl.* 14, [143] 973
 Ministers' Money (Ireland), 2R. Amend. [141] 1113
 Paper Duty, [142] 1327

HAMILTON, Mr. J. H., *Dublin Co.*

Grand Jury Assessment (Ireland), Com. *add. cl.* [142] 619

Hampstead Heath

l. Petition (Lord St. Leonards), [142] 1571
c. Question (Lord R. Grosvenor), [142] 554; see *Estates, Leases and Sales of Settled, Bill*

HANKEY, Mr. T., *Peterborough*

Business of the House, [142] 1686
 Drafts on Bankers, 2R. [141] 440
 Fire Insurances, Com. moved for, [141] 334; 2R. 1375; Com. *cl.* 2, [142] 396
 London Corporation, [142] 1686, 1993
 Parliament, House of—The Clock, [141] 149
 Partnership Amendment (No. 2), Com. *cl.* 3, [143] 371; 3R. *cl.* 3, 808
 Stamp Duties, Com. *cl.* 1, [143] 944
 Supply—Inland Revenue Department, [140] 863;—Education (Ireland), [141] 541;—West Indies (Governors, &c.), 1004
 Tralee and Killarney Savings Banks, Com. moved for, [142] 776
 West India Loans, 3R. [142] 1389

Hanover, Diplomatic Establishment at,

c. Question (Mr. A. Wise), [142] 1494

Harbour of Refuge (Cardigan Bay),

c. Com. moved for (Mr. L. Davies), [140] 668, [A. 44, N. 118, M. 74] 677

Harbours of Refuge—Supply,

c. [141] 248

HARCOURT, Col. F. V., *Isle of Wight*

Gardeners, Under, Tax on, [140] 1710
 Scientific and Literary Societies, Com. *cl.* 2, [142] 939
 Union-House Boys and the Navy, [140] 2044; [141] 884

HARDINGE, Viscount (General Commanding in Chief)

Army, Administration of the, Papers moved for, [140] 1043

HARDWICKE, Earl of

Agricultural Statistics, 2R. [140] 2223; Com. [141] 454, 455
 Australia, Postal Communications with, [141] 547; [143] 1478

HARDWICKE, Earl of—continued.

Crimean Commissioners' Report, [140] 508;—Board of Inquiry, 1017
 Education, [141] 40
 Grand Juries, 2R. [142] 1967
 London and Durham, Bishops of, Retirement, Com. [143] 962
 Maritime Law, International, [142] 508
 Reformatory and Industrial Schools, Com. [142] 1324
 Sailing Vessels, Regulations for, [142] 850
 Sebastopol, Sunken Ships at, [140] 978
 Steam Navy, [141] 627
 United States, Relations with, [142] 949

HARDY, Mr. G., *Leominster*

Dissenters' Marriages Com. *cl.* 1, [142] 939; *cl.* 2, Amend. 941
 Factories, 2R. [141] 374; Com. *cl.* 4, [142] 562, 563; *add. cl.* 564
 Factory Inspectors, [142] 552
 Police (Counties and Boroughs), Com. *cl.* 6, [141] 1931

Harness, Colonel, Case of,

c. Question (Captain L. Vernon), [141] 277; Papers moved for, 658; Motion withdrawn, 663

HARRINGTON, Earl of

Scutari Monument, The, [143] 493

HARROWBY, Earl of (Lord Privy Seal)

Agricultural Statistics, Com. [141] 459
 Bank Charter Act, Commission moved for, [141] 560
 Burial-Ground — Great Torrington, [142] 2070
 Church Discipline, 2R. [141] 1282, 1309
 Dalhousie, Marquess of, Pension to, Correspondence moved for, [142] 212
 Estates, Leases and Sales of Settled, Commons' Amends. [143] 1480
 Indian Finance, Papers moved for, [141] 639
 Limited Liability, Returns moved for, [141] 148
 London and Durham, Bishops of, Retirement, 1R. [143] 547; 2R. 830; 3R. 1096; Commons' Amends. 1479
 Madras, Torture in, Res. [141] 997
 Maritime Law, International, [142] 506
 Mercantile Law Amendment, Rep. [141] 1908
 Oxford University Bill, Explanation, [141] 1047
 Parishes, Formation of, Com. *cl.* 9, [143] 1091, 1093
 Peerages for Life, Report, [140] 1305
 Portraits, National, Gallery of, [140] 1787
 Reformatory and Industrial Schools, Com. [142] 1324
 Ticket-of-Leave System, Returns moved for, [140] 1403, 1408; Address moved, [141] 1177
 Turnpike Trusts Arrangements, 2R. [140] 1447, 1448
 Westminster, New Palace of—Decay of Stonework, [143] 1420

HASTIE, Mr. Alexander, Glasgow

- Bankruptcy (Scotland), 2R. [141] 23
 Billeting (Scotland), [141] 579
 Evictions (Ireland)—Case of Mr. Pollok, [142] 5
 Hospitals (Dublin), Com. [143] 971
 Joint-Stock Companies, Com. cl. 37, [142] 643
 Poor Law Amendment (Scotland), 3R. [143] 811
 Reformatory Schools (Scotland), 2R. [141] 18
 Registration (Scotland), [141] 41
 Supply—Hospitals (Ireland), Amend. [141] 1043, 1044
 Voters, Registration of (Scotland), Com. cl. 1, [142] 1683

HASTIE, Mr. Archibald, Paisley

- Joint-Stock Companies, Com. cl. 5, [142] 637
 Partnership Amendment, 2R. [140] 259, 481
 Partnership Amendment (No. 2), 2R. Amend. [142] 652; Com. cl. 3, [143] 370
 Reformatory Schools (Scotland), Com. cl. 1, [142] 237

Hay and Straw Trade Bill,

- l. 1R.* [142] 177; 2R.* 949; 3R.* 1219
 c. 1R.* [142] 1493; 2R.* [143] 842; 3R.* 1424
 l. Royal Assent, [143] 1491

HAYTER, Rt. Hon. W. G., Wells

- Ascension Day—Adjournment, [141] 1786

HEADLAM, Mr. T. E., Newcastle-on-Tyne

- Army, Sale of Commissions in the, Com. moved for, [140] 1833
 Charities, Com. cl. 1, [143] 1061
 Commissions of Deceased Officers, Address moved, [142] 1527, 1533
 Estates, Leases and Sales of Settled, Com. add. cl. [143] 1054
 Indian Budget, The, Com. Res. [143] 1160
 London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1383, 1413
 Medical Profession, Leave, [140] 497; 2R. 1012, 1015; Com. [141] 337, 342, 347, 760
 Police (Counties and Boroughs), Com. cl. 5, Amend. [141] 1930; cl. 7, 1933
 Scientific and Literary Societies, Com. [143] 228
 Shipping, Local Charges on, Com. moved for, [141] 213
 Shipping, Local Dues on, Leave, [140] 173; 2R. 261, 1424
 Supply—Charity Commission, [142] 858

Health, General Board of—Supply,

- c. [141] 1367; Amend. (Mr. Michell), 1368; Motion neg. 1374; Amend. (Mr. Miles), [A. 63, N. 154, M. 91] *ib.*

Health, General Board of, Continuance Bill,

- c. 1R.* [143] 525; 2R.* 733; Com. 993; 3R.* 1027
 l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
 Royal Assent, [143] 1491

Health, Public, Amendment Bill,

- c. Leave, [142] 465; 1R.* 631; 2R.* 1987; Com. [143] 495; Amend. (Mr. Knight), 497, [o q. A. 61, N. 78, M. 12] 505

Health, Public, Supplemental Bill,

- c. 1R.* [142] 550; 2R.* 631; 3R.* 851
 l. 1R.* [142] 899; 2R.* 1054; 3R.* 1219
 Royal Assent, [142] 1771

HEATHCOTE, Sir W., Oxford University

- Cambridge University, Com. cl. 1, [142] 843; cl. 6, 845; cl. 25, 849; cl. 29, 1210; Rep. add. cl. 1741; cl. 27, 1746
 Coast-Guard Service, Com. cl. 5 [143] 1000
 Dissenters' Marriages, 2R. [140] 1929; Com. cl. 1, [142] 939; cl. 4, 946
 Education (Ireland), Address moved, [142] 1597
 Estates, Leases and Sales of Settled, Com. add. cl. [143] 1053
 Kars, Fall of, Res. [141] 1772
 London and Durham, Bishops of, Retirement, 2R. Amend. [143] 1276; Preamble, 1415
 Oxford University, Address moved, [140] 2025
 Police (Counties and Boroughs), 2R. [140] 2176; Com. cl. 5, [141] 1930; cl. 6, [142] 296, 305
 Supply—Constabulary Police at Aldershot, [142] 1032
 Tithe Commutation Rent Charge, 2R. [142] 160

Heligoland—Supply,

- c. [141] 1009

HENLEY, Rt. Hon. J. W., Oxfordshire

- Aldershot, Review at, [143] 865
 Army Estimates, [140] 2055, 2056, 2064, 2065, 2067; [142] 1552
 Audit of Public Accounts, [141] 702
 Budget, The—Financial Statement, Res. [142] 384
 Business of the House, [141] 2035
 Cambridge University, Com. cl. 27, [142] 1206; cl. 29, 1209
 Chancery, Court of Appeal in, (Ireland), Com. cl. 3, [143] 508
 Chancery, Court of, (Ireland), (Receivers), Com. cl. 1, [143] 505
 Charitable Uses, 3R. [140] 1425
 Charities, 2R. [143] 966; Com. cl. 1, 1061
 Coast-Guard Service, Com. cl. 5, [143] 999
 Consolidated Fund Appropriation, Com. [143] 561; cl. 30, 565
 Contractors' Disqualification Removal, 2R. [140] 1437
 County Courts Acts Amendment, Com. cl. 5, [143] 694; cl. 20, 695; cl. 72 (D) 704; Rep. 995; 3R. add. cl. 1205; cl. 10, 1209
 Dissenters' Marriages, 2R. [140] 1929; Com. cl. 1, [142] 940; cl. 4, 941, 943, 945, 946; cl. 11, Amend. 948
 Drainage Advances Acts Amendment, Com. [140] 1016
 Dwellings for Labouring Classes (Ireland), Com. cl. 2, [141] 1795, 1796
 Education, National, [140] 1980; Com. Amend. [141] 780, 865, 925, 960
 Education, Vice President of Committee of Council of, Com. cl. 1, [143] 1056, 1059; 3R. Amend. 1209
 Estates, Leases and Sales of Settled, 2R. [143] 946; Com. add. cl. [143] 1052
 Fire Insurances, 2R. [141] 1377; Com. cl. 2, [142] 398
 Health, Public, Com. [143] 500

HEWLEY, Rt. Hon. J. W.—continued.

Income and Land Taxes, Com. *cl.* 2, [143] 942, 943
 Incumbered Estates (Ireland), Com. *add. cl.* [143] 489
 Joint-Stock Banks, Com. [141] 1470
 Joint-Stock Companies, Com. *cl.* 5, [142] 634, 635, 637; *cl.* 13, 638; *cl.* 19, 639; *cl.* 29, 640, 641, 642; *cl.* 37, 644; *cl.* 58, 650; *cl.* 66, 651; *cl.* 82, 652; 3R. *cl.* 46, Amend. 897
 Joint-Stock Companies Winding-up Act Amendment, 2R. [142] 1150; Com. [143] 1006
 Judgments Execution, Com. [143] 538
 Justices of Peace Qualification, Com. *cl.* 7, [141] 1111, 1112
 London and Durham, Bishops of, Retirement, 2R. [143] 1271, 1342, 1346; Com. 1307; *cl.* 1, 1371; Preamble, 1430
 Marriage Law Amending, Rep. [143] 998
 Medical Profession, 2R. [140] 1014; Com. [141] 842, 701
 Mercantile Law Amendment, Com. *cl.* 2, Amend. [143] 1000
 Moneys, Public, Com. moved for, [141] 1465
 Naval Review, The, [141] 1562
 Offences, Trial of, 2R. [140] 1768; Com. *cl.* 1, 2196, 2199
 Oxford University, Address moved, [140] 2028
 Parochial Schools (Scotland), Lords' Amends. [143] 1172
 Partnership Amendment, 2R. [140] 260; Com. 2201
 Partnership Amendment (No. 2), 3R. *cl.* 3, [143] 808; That the Bill do pass, 809
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1317
 Police, Counties and Boroughs, 2R. [140] 692, 2164; Com. *cl.* 1, Amend. [141] 1564, 1582; *cl.* 2, 1585; *cl.* 8, 1936; *cl.* 10, 1940; *cl.* 11, 1943; *cl.* 6, [142] 295, 306; *add. cl.* 606, 613
 Poor Law Amendment, 2R. [142] 614
 Poor Law Amendment (No. 2), 2R. [143] 262
 Reformatory Schools, Com. *add. cl.* [142] 571, 573
 Reformatory and Industrial Schools, Lords' Amends. [143] 1003
 Sadleir, James, Expulsion of, [143] 1406
 St. James's Park, Com. moved for, [140] 1390
 Scientific and Literary Societies, Com. *cl.* 2, [142] 938; [143] 227, 229
 Secretaries of State, Return moved for, [141] 1248
 Supply—Audit of Public Accounts, [141] 257, 258; Stationery, Printing, &c., 264;—Inspectors of Prisons, 270;—General Board of Health, 1371; [142] Charity Commission, 859, 863;—Constabulary Police at Aldershot, 1032, 1034; Embassy Houses Abroad, 1042; [143] 275; [142] Incumbered Estates Commission (Ireland), 1050;—Science and Art Department, Marlborough House Removal, 1129;—Education, 1372;—St. James's Park, 1564
 Tithe Commutation Rent Charge, 2R. [142] 159
 Vaccination, 2R. [141] 273; Com. [143] 552
 Westminster Bridge, [142] 329
 Wills and Administrations, Com. Amend. [143] 296, 298

HERBERT, Rt. Hon. S., Wiltshire, S.

Army Chaplains, [141] 880
 Army—Education of Officers, [142] 980
 Army Estimates, [140] 1767, 1768; [141] 186, 204
 Army, Sale of Commissions in the, Com. moved for, [140] 1841
 Naval Review, The, [141] 1563
 Peace, Treaty of, Address moved, [142] 35

HERBERT, Mr. H. A., Kerry

Chancery, Court of, (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 949
 Dwellings for Labouring Classes (Ireland), Com. *add. cl.* [142] 1664
 Lunatic Asylums (Ireland) (No. 2), Com. *cl.* 3, [142] 1761; *cl.* 4, 1764
 Maynooth College, Leave, [141] 1103; 2R., Amend. [142] 1918, 1965, 2047
 Militia, The Irish, Disembodiment of, [142] 264
 Naval Review, The, [141] 1398
 Peace, Treaty of, Address moved, [141] 2042
 Postal Communication with Dublin, [141] 1530
 Supply—Agricultural Statistics, [142] 1109
 Tralee and Killarney Savings Banks, Com. moved for, [142] 773

Hereditary Pensions,

c. Question (Sir F. Baring), [141] 1237, 1342

HERVEY, Lord A., Brighton

Tithe Commutation Rent-Charge, 2R. [142] 153

HEYWOOD, Mr. J., Lancashire, N.

Bible, Authorised Version of the, Address moved, [143] 1221, 1226
 British Museum Commission, [140] 1479
 British Museum—Sunday Opening, [140] 1094
 Cambridge University, Com. [142] 838; *cl.* 5, [142] Amend. 844; *cl.* 6, Amend. 845; *cl.* 23, 846; *cl.* 24, Amend. 847; *cl.* 25, 848, 849; *cl.* 27, Amend. 1198, 1202, 1207, 1208, 1209; *cl.* 30, 1211; *cl.* 31, 1212; *cl.* 39, 1214; Rep. *add. cl.* 1740, 1742, 1743, *cl.* 27, 1745; *cl.* 44, Amend. 1755, 1757, 1758; Lords' Amends. [143] 1043
 County Courts Acts Amendment, 3R. *add. cl.* [143] 1203
 Education, Vice President of Committee of Council on, Com. *cl.* 1, [143] 1057; 3R. 1217
 Factories, 2R. [141] 444
 Justices of Peace Qualification, Com. *cl.* 7, [141] 1100
 Oxford University, Address moved, [140] 2015, 2031
 Science, Advancement of, Com. moved for, [142] 1263, 1272
 Supply—Royal Society, [141] 622

HEYWORTH Mr. L., Derby

Monetary System, Com. moved for, [140] 1527
 Oxford University, Address moved, [140] 2018
 Session, Review of the, Returns moved for, [143] 1477
 Supply—Education (Ireland), [141] 542;—Theological Professors (Belfast), 591, 596

HIGGINS, Col. G. G. C., Mayo Co.

Grand Jury Cess—County of Mayo, [142] 1086
Incumbered Estates Court (Ireland), [142] 1495

HILDYARD, Mr. R. C., Whitehaven

Girls, Traffic in, to Hamburg, [141] 469
London and Durham, Bishops of, Retirement, Com. [143] 1363
New Zealand, Salary of the Bishop of, [143] 332
Police (Counties and Boroughs), Com. cl. 11, [141] 1943
Scientific and Literary Societies, Com. [143] 228; cl. 2, 229
Shipping, Local Dues on, 2R. [140] 1371
Supply—Superannuation Allowances, [141] 1039

HINDLEY, Mr. C., Ashton-under-Lyne

Cape of Good Hope, [143] 975
Partnership Amendment (No. 2.), 2R. [142] 665; Com. cl. 3, [143] 366, 367.
St. James's Park, Com. moved for, Adj. moved, 1880, 1392, 1398; Nomination of Com. [140] 1429
United States, Relations with the, [142] 1405

Hinds, Miss, Murder of,

l. Petition of Thomas Dunne, (Lord Lyndhurst), [142] 178
c. Petition of Thomas Dunne (Mr. Kennedy), [142] 277

Hogg, Sir J. W., Honiton

Chinese War, Expenses of the, [141] 658
India, Revenues of, [141] 1225
Indian Budget, The, Com. Res. [143] 1155, 1164
Nawab of Surat Treaty, Rep. [142] 1301; 3R. Amend. 1899
Oude, Kingdom of, [140] 1226
Persia, Relations with, [141] 168, 169
Sombre, Mr. Dyce, Will of, [141] 177
Standing Orders, Res. [143] 1106

HOLLAND, Mr. E., Evesham

Crimean Tartars, The, [141] 45

Holyhead Harbour, &c.—Supply,

c. [141] 248

Home Office—Supply,

c. [141] 251

HORSFALL, Mr. T. B., Liverpool

Custom House Regulations, [141] 874
Customs Establishment, Liverpool, [141] 885, 888
Demerara, Riots in, [142] 1086
Joint-Stock Companies, Com. cl. 82, [142] 651, 652
Liverpool, Customs Establishment at, [140] 1951
Partnership Amendment (No. 2). 2R. [142] 665
Police (Counties and Boroughs), Com. cl. 7; Amend. [141] 1932, 1933, 1934

HORSFALL, Mr. T. B.—continued.

Shipping, Local Charges on, Com. moved for, [141] 214, 216; Appointment of Com. 685
Shipping, Local Dues on, Leave, [140] 174; 2R. 261, 1354
Sunday Labour in the Dockyards, [141] 873

HORSMAN, Rt. Hon. E. (Secretary for Ireland), Stroud

Burial-Grounds (Ireland), 2R. [140] 493
Common Law Courts (Ireland), [142] 1496
Constabulary Force (Ireland), [141] 1593
Crime and Outrage (Ireland) Act, [142] 594
Dissenters, Interment of (Ireland), [142] 1993
Dublin Metropolitan Police, 2R. [142] 1216, 1217; [143] 117
Dwellings for Labouring Classes (Ireland), Com. cl. 1, [141] 1793; cl. 2, 1796
Education (Ireland), Address moved, [142] 1603, 1623; Res. 1860, 1873, 1881
Fireworks (Dublin and Edinburgh), Address moved, [141] 1468
Grand Juries, &c. (Ireland), 2R. [143] 1274, 1275
Grand Jury Assessment (Ireland), Com. cl. 6, [142] 617
Hospitals (Dublin), Com [143] 969; cl. 9, 972; cl. 14, 973
Incumbered Estates Court, Returns moved for, [141] 545, 546, 547; [142] 1495
Juries (Ireland), 2R. [141] 1469
Justices of Peace Qualification, Com. cl. 3, [141] 1105, 1106; cl. 7, 1108, 1110, 1111, 1112
Juvenile Offenders (Ireland), 2R. [140] 496
Leitrim Militia, The, [143] 1495
Lunatic Asylums (Ireland, No. 2), Com. cl. 3, [142] 1759, 1760; cl. 4, 1763, 1765
Maynooth College, 2R [142] 1958
Ministers' Money (Ireland), Com. moved for, [140] 1002, 1003; 2R. [141] 1117, 1125, 1138
Peace Preservation (Ireland), 2R. [142] 1391; Com. cl. 1, 1576; cl. 2, 1577, 1578; cl. 4, *ib.*
Poor Law (Ireland), 2R. [143] 1275
Prisons (Ireland), Com. [143] 114; cl. 3, 115; cl. 4, 116, 117
Ragged Schools in Dublin, [142] 260
Rolls, Master of the, and the Attorney General for Ireland, [143] 672, 708
Spirit Trade (Ireland), 2R. [142] 1328
Supply—Poor Laws, [141] 352;—Education (Ireland), 533, 542;—Queen's University (Ireland), 590;—Superannuation Allowances, 1034, 1035, 1036, 1039;—Hospitals, (Ireland), 1043
Tenant Right (Ireland), [141] 1344; [142] 978, 1024, 1026; Com. [143] 536

Hospitals, Conveyance of Sites for, Bill,
l. 1R.* [143] 1490**Hospitals (Dublin) Bill,**

c. 1R.* [142] 1326; 2R.* 2071;
Com. [143] 968; Amend. (Mr. Cowan), 969, [o. q. A. 53, N. 22, M. 31] 972;
cl. 9, [A. 43, N. 29, M. 14] 973;
cl. 14, Amend. (Mr. S. Fitzgerald), 973, [o. q. A. 26, N. 51, M. 25] *ib.*; 3R.* 1103
l. 1R.* [143] 1063; 2R.* 1176; 3R.* 1478
Royal Assent, [143] 1491

HOTHAM, Lord, Yorkshire, E. R.

- Army—Education of Officers, [142] 1016 ;—
Reduction of Officers, 1735
Army Estimates, [141] 200, 202 ; [142] 1557,
1700
Assistant Judge, Middlesex Sessions, [142] 268
Commissions of Deceased Officers, Address
moved, [142] 1530
Fireworks in the Parks, [141] 1707
Navy Estimates, [140] 575
Police (Counties and Boroughs), Com. *add. cl.*
[142] 309
Shipping, Local Charges on, Appointment of
Com. [141] 684
Standing Orders, Res. [143] 1105
Supply—Spurn Point, [142] 1045 ;—Civil Con-
tingencies, 1342

HOWARD, Lord E. G. F., Arundel

- Police (Counties and Boroughs), Com. *cl.* 12,
[142] 308

HOWARD, Hon. C. W. G., Cumberland, E.

- Naval Review, The, [141] 1400

HUGHES, Mr. H. G., Longford

- Chancery, Court of (Ireland) (Receivers), Com.
cl. 1, [143] 506
Education (Ireland), Address moved, [142] 1632

HUME, Mr. W. W. F., Wicklow

- Joint-Stock Companies Winding-up Act
Amendment, 2R. [142] 1151, 1766
Militia, Disembodiment of the, [141] 565

Huntingdon—Postmaster at,

1. Question (Earl of Sandwich), [141] 1046

HUTCHINS, Mr. E. J., Lymington

- Army Estimates, [140] 2063, 2088
Dissenters' Marriages, Com. *cl.* 11, [142] 949
Maynooth College, Leave, Amend. [141] 1102
Naval Review, The, [141] 1561
Reformatory Schools (Scotland), Com. *cl.* 1,
[142] 237
St. James's Park, Road through, [140] 150,
[141] 1188
Supply—Emigration, [141] 1010 ;—Constabu-
lary Police at Aldershot, [142] 1031 ;—Em-
bassy Houses Abroad, 1039, 1043

HUTT, Mr. W., Gateshead

- Scientific and Literary Societies, Com. *cl.* 2,
Amend. [142] 938 ; [143] 225, 229

Imperial Hotel Company's Bill,

- c.* 1R.* [140] 979 ;
2R. Amend. (Mr. Bentinck), 1699, [o. q.
A. 72, N. 64, M. 8] 1702

Income and Expenditure,

- c.* Returns moved for (Mr. W. Williams), [140]
225 ; Motion withdrawn, 229

Income and Land Taxes Bill,

- c.* Leave, [143] 617 ; 1R.* 1618 ; 2R.* 733 ;
Com. *cl.* 2, 941
3R. 1028
1. 1R.* [143] 1006 ; 2R.* 1063 ; 3R.* 1347
Royal Assent, [143] 1491

Income and Property Tax,

- c.* Motion (Mr. Muntz), [141] 640 ; Previous
Question (Chancellor of the Exchequer),
653, [A. 63, N. 194, M. 181] 658

Incumbered Estates Court,

- c.* Returns moved for (Mr. Deasy), [141] 543 ;
Question (Col. Greville), [142] 1162 ; (Col.
Higgins), 1495

Incumbered Estates (Ireland) Bill,

- c.* 1R.* [142] 2071 ;
2R. [143] 874
Com. *add. cl.* (Mr. Whiteside), 488, [A. 48,
N. 83, M. 85] 490 ; 3R. *add. cl.* (Mr. White-
side) 615 ; Motion withdrawn, 617
1. 1R.* [143] 619 ; 2R.* 710 ;
3R. 1022
Royal Assent, [143] 1064

Indemnity Bill,

- c.* 1R.* [143] 525 ; 2R.* 549 ; 3R.* 733
1. 1R.* [143] 812 ; 2R.* 946 ; 3R.* 1063
Royal Assent [143] 1490

India,

- Accounts, l.* Returns moved for (Earl of Albe-
marle), 621 ; Motion withdrawn, [142] 631
Administration of Justice, c. Question (Mr. J.
G. Phillimore), [142] 1409
Appeals, c. Question, (Sir E. Perry) [143] 555
Army, The, c. Question, (Col. North) [143]
1425
Budget, The, c. Com. Res. (Mr. V. Smith)
[143] 1119
Communication with, c. Question (Lord Stan-
ley), [142] 551
Coorg, The Rajah of, l. Question (Marquess of
Clanricarde), [143] 1065
Currency, l. Petition (Earl of Albemarle),
[141] 1248
c. Question (Mr. Cheetham), [143] 556
Dalhousie, Marquess of, Pension to, l. Corre-
spondence moved for (Marquess of Clanri-
carde), [142] 207 ; Motion withdrawn, 215
c. Observations (Sir E. Perry), [142] 273
East India Company—Voluntary Payments, l.
Question (Marquess of Clanricarde), [143] 7
c. Question (Mr. Otway), [143] 264
Finance, l. Papers moved for (Marquess of
Clanricarde), [141] 633
Government of, l. Com. moved for (Earl of
Albemarle), [142] 313 ; Motion neg. 322
Land Tax, l. Returns moved for (Marquess of
Clanricarde), [143] 1421
Law Commission, c. Question (Mr. Atherton),
[141] 1394
Law Expenses—"In Re Dyce Sombre," c.
Question (Mr. Otway), [140] 1410, 1953 ;
—see *Judicial Reflections on Members—*
Sombre, Mr. Dyce
Legislative Council, l. Petition, (Earl of Albe-
marle, [143] 306
Madras, Torture in, l. Res. (Earl of Albe-
marle), [141] 964 ; Amend. (Duke of Ar-
gyll), 988
c. Observations (Sir E. Perry), [142] 273 ;—see
Torture in
Oude, Treaty of, l. Question (Marquess of
Clanricarde), [141] 775
c. Question (Mr. Otway), [140] 1224 ;—*An-
nexation of, Returns moved for* (Sir E.
Perry, 1855

India—continued.

Pertaub Singh and Bisheu Singh, Case of, l.
Petition (Earl of Ellenborough), [143] 619
Revenues of, c. Observations (Sir E. Perry,
[141] 1189
Roman Catholic Clergy, c. Question (Mr.
Grogan), [143] 1384
Salt Tax, c. Question (Sir J. Pakington), [141]
153; [143] 643
Surat, The Nawab of, c. Question (Sir E.
Perry), [140] 970; (Sir F. Kelly), [143]
674;—See Nawab of Surat Treaty Bill
Tanjore and Jodpore, Rajahs of, c. Question
(Mr. Murrough), [141] 151
Torture in, l. Returns moved for (Earl of Al-
bemarle), [140] 1563; Address moved (Earl
of Albemarle), [141] 377; Statement (Earl
of Ellenborough), 1144;—See Madras, Tor-
ture in

Industrial and Provident Societies Bill,
c. 1R. [141] 2029; 2R.* [142] 258; 3R.**
550
l. 1R. [142] 576; 2R.* 1667; 3R.* [143] 1*
Royal Assent [143] 383

INGHAM, Mr. R., South Shields

Carlisle Canonries, Leave, [140] 806
Church Estate Commissioners, [143] 1220
Coalwhippers (Port of London), 2R. [142]
1729
Education, Vice President of Committee of
Council on, 2R. [143] 993
Shipping, Local Dues on, 2R. [140] 1376
Supply—Charity Commission, [142] 857

INGRAM, Mr. H., Boston

Budget, The—Financial Statement, Res. [142]
361
Corrupt Practices Prevention, Com. [143] 986

Inland Revenue Department—Supply,

c. [140] 863

Intestates' Personal Estates Bill,

c. 1R. [142] 1733; 2R.* 1906; 3R.* [143] 12*
l. 1R. [143] 110;*
2R. 493; 3R. 1007*
Royal Assent, [143] 1491

Ireland,

Bank Frauds, c. Question (Mr. Roebuck), [143]
1034
Common Law Courts, c. Question (Mr. George),
[142] 1496
Communication with England, c. Question (Mr.
V. Scully), [140] 221
Constabulary Force, c. Question (Visct. Castle-
rosse), [141] 1593, 1707;—Paymasters of the,
Question (Mr. Serj. O'Brien), [143] 333
Crime and Outrage (Ireland) Act, c. Question,
(Mr. I. Butt), [142] 594
Dissenters, Interments of, Question (Mr. Ur-
quhart), [142] 1993
Education, c. Papers moved for (Mr. Macart-
ney), [141] 435;
[142] Address moved (Mr. Walpole), [142] 1580;
. Amend. (Mr. Kennedy), 1600; Amend. neg.
. 1603; Adj. moved (Mr. De Vere), 1647,
*. [A. 32, N. 184, M. 152] *ib.*; [m. g. A. 113,*
*. N. 103, M. 10] *ib.*; Question (Mr. Fortescue),*
. 1665; (Mr. Walpole), 1685; Res. (Mr. For-

Ireland—continued.

[142] tesque), 1807; Amend. (Mr. Grogan), 1881;
. Adj. moved (Visct. Bernard), 1802, [A. 50,
. N. 331, M. 281] 1863; Adj. moved (Mr.
*. Vance), *ib.*, [A. 39, N. 328, M. 289] 1886;*
. Amend. (Mr. Grogan), [A. 95, N. 279, M.
*. 184] *ib.**
Established Church, c. Observation (Mr. Staf-
ford), [142] 712; Com. moved for (Mr. Miall),
715, [A. 93, N. 163, M. 70] 770
Evictions, Alleged—Case of Mr. Pollok, c. Com.
moved for (Mr. McMahon), [141] 1707;
Amend. (Visct. Palmerston), 1715; Obser-
ventions (Sir M. S. Stewart), [142] 697
Fairs and Markets, l. Question (Earl of Claa-
carty), [141] 1696
Fermoy Peerage, l. Statement (Earl of Derby),
[140] 448, 698
Fireworks, c. Address moved (Mr. Grogan),
[141] 1468
Fisheries, c. Com. moved for (Mr. McMahon),
[142] 1296; House counted out, 1297
Hinds, Miss, Murder of, l. Petition of Thomas
Dunne (Lord Lyndhurst), [142] 178
c. Petition of Thomas Dunne (Mr. Kennedy),
[142] 277
Incumbered Estates Court, c. Returns moved
for (Mr. Deasy), [141] 543; Question (Col.
Greville), [142] 1162; (Col. Higgins), 1495
Judicial Bench, c. Returns moved for (Sir J.
Shelley), [140] 760; Amend. (Mr. Kennedy),
769, [o. q. A. 132, N. 121, M. 11] 806
Maynooth College, c. Com. moved for (Mr.
Spooner), [141] 1049; Amend. (Mr. Black),
1067, [A. 21, N. 253, M. 232] 1100; [m. g.
*A. 159, N. 133, M. 26] *ib.*;—see Maynooth*
College Bill
Mayo, County of, Grand Jury Cess, c. Question
(Col. Higgins), [142] 1086
Militia, Disembodiment of the, l. Question (Earl
of Donoughmore), [142] 1395; (Visct. Dun-
gannon), [143] 1067
c. Question (Mr. H. Herbert), [142] 264; (Col.
Dunne), 1408; (Mr. Davison), [143] 14;
(Lord C. Hamilton), 733; (Mr. Maguire),
740
Militia, Mutiny in an Irish Regiment of, l.
Question (Earl of Donoughmore), [143] 543;
(Marquess of Clanricarde), 1347
c. Question (Col. French), [143] 557; (Col.
Dunne), 682
Militia, The Leitrim, c. Question (Mr. Brady),
[143] 1495
Ministers' Money, c. Com. moved for (Mr.
Fagan), [140] 999; Motion withdrawn, 1009
Nisi Prius, Clerks in (Dublin), c. Question
(Mr. Kennedy), [142] 1230
Peers, Expenses of, l. Com. moved for (Earl of
Donoughmore), [143] 111
Postal Communication with Dublin, l. Ques-
tion (Visct. Dungannon), [141] 1591, [143]
1007
c. Question (Mr. H. Herbert), [141] 1530;—
with Bandon, Question (Visct. Bernard),
[141] 2030
Postal Service, c. Question (Mr. Cairns), [140]
384; (Mr. Grogan), 1219; (Mr. Lyons
Montgomery), [142] 16; (Mr. Macartney),
552
Ragged Schools in Dublin, c. Question (Mr.
De Vere), [142] 259
Rolls, Master of the, and the Attorney General
for Ireland, c. Observations (Col. French),

[cont.]

[cont.]

Ireland—continued.

- [143] 403; Question (Mr. Napier), 652; (Mr. Roebuck), 708; (Mr. J. D. FitzGerald), 736; Explanation (Mr. J. D. FitzGerald), 866
Sadleir, James, Expulsion of, c. Motion (Mr. Roebuck), [143] 386; Amend. (Mr. J. S. Wortley), 1398; Amend. withdrawn, 1408; Previous Question put and neg. *ib.*
Sligo Election Committee, c. Observations (Mr. T. Duncombe), [142] 1091
Steam Communication between Holyhead and Kingstown, L. Question (Visct. Dungannon), [141] 1591; [143] 1007
Supply—Public Buildings, c. [141] 248;—
 [141] *Kingstown Harbour*, 249;—*Lord Lieutenant*;—*Chief Secretary*;—*Paymaster of Civil Services*;—*Inspectors of Lunatic Asylums*, 254;—*General Registrar Office (Dublin)*, 261;—*Law Courts and Officers*, 269, 270;—*Education Commissioners*, 589;—*Queen's University*, 590;—*Queen's Colleges*;—*Royal Irish Academy*;—*Royal Hibernian Academy*;—*Theological Professors (Belfast)*, 591; Amend. (Mr. Heyworth), 592, [A. 31, N. 85, M. 54] 598; Amend. (Mr. Crossley), *ib.*; Amend. withdrawn, 599; Amend. (Mr. Spooner), [A. 42, N. 88, M. 46] 600; Amend. (Mr. Cheetham), [A. 36, N. 108, M. 72] *ib.*;—*Infirmaries*, 1042;—*Hospitals*, Amend. (Mr. Alexander Hastie), 1043, [A. 32, N. 187, M. 155] 1044; 2nd Amend. [A. 33, N. 180, M. 147] *ib.*;—*Non-conforming, &c., Ministers*, 1241; Amend. (Mr. Pellatt), [A. 60, N. 230, M. 170] 1243; Amend. (Mr. Hadfield), [A. 39, N. 214, M. 175] 1244; Amend. (Mr. Kershaw), [A. 40, N. 198, M. 158] 1246; [r. p. A. 16, N. 211, M. 195] *ib.*; Amend. (Mr. Baines), *ib.*; Motion neg. 1247;—*Charitable Allowances, ib.*;—*Commission for Publishing Ancient Laws and Institutes*;—*Process Servers*, [142] 1027;—*Incumbered Estates Commission*, 1046; Amend. (Col. Dunne), 1048; Amend. withdrawn, 1050;—*Census; Gallery of Arts, Dublin*, 1050
Tenants' Compensation, c. Question (Mr. V. Scully), [140] 89
Tenant Right, c. Question (Mr. Stafford), [141] 1343; [142] 978; (Mr. G. H. Moore), 1028
Tipperary Bank, c. Question (Mr. Bowyer), [142] 1164;—*Mr. James Sadleir*, Question (Mr. I. Butt), [143] 381; (Mr. G. H. Moore), 399; (Mr. Macartney), 644;—See *Rolls, Master of the—Sadleir, James*
Tralee and Killarney Savings Banks, c. Com. moved for (Capt. D. O'Connell), [142] 772; Amend. (Mr. Vance), 775, [A. 84, N. 9, M. 75] 776; [m. q. A. 39, N. 54, M. 15] *ib.*

See

- Bankruptcy and Insolvency (Ireland) Bill.*
Burial-Grounds (Ireland) Bill
Chancery, Court of Appeal in, (Ireland) Bill.
Chancery, Court of, (Ireland) (Sale of Estates) Bill
Chancery Courts (Ireland) Bill
Courts of Common Law (Ireland) Bill
Drainage (Ireland) Bill
Dublin Metropolitan Police Bill
Dublin University Bill
Dwellings for Labouring Classes (Ireland) Bill
Grand Juries (Ireland) Bill
Grand Jury Assessments (Ireland) Bill
Grand Jury Cess (Mayo) Bill

, [cont.]

Ireland—continued.

- Hospitals (Dublin) Bill*
Incumbered Estates (Ireland) Bill
Juries (Ireland) Bill
Juvenile Convict Prisons (Ireland) Bill
Juvenile Offenders (Ireland) Bill
Lunatic Asylums (Ireland) Bill
Lunatic Asylums (Superannuation) (Ireland) Bill
Maynooth College Bill
Ministers' Money (Ireland) Bill
Pauper Removal, Scotch and Irish, Bill
Peace Preservation (Ireland) Bill
Poor Law (Ireland) Bill
Poor Law Commissioners (Ireland), Secretary to the, Bill
Prisons (Ireland) Bill
Public Works (Ireland) Bill
Queen's Colleges (Ireland) Bill
Railway Act (Ireland), 1851, Continuance Bill
Spirit Trade (Ireland) Bill
Tenant Right (Ireland) Bill
Turnpike Acts Continuance (Ireland) Bill
Unlawful Oaths (Ireland) Bill
Works, Transfer of (Ireland), Bill

Ismail, Fortifications of.

- l. Question (Earl of Malmesbury), [143] 1080
 c. Question (Sir De L. Evans), [142] 1496;—*Evacuation of*, Question (Col. Dunne) [143] 13; see *Kars, &c.*

Italian Legion, The.

- c. Question (Mr. Bowyer), [140] 1790; (Capt. O'Connell), [142] 1401

Italy.

- Affairs of.* l. Observations (Marquess of Clanricarde), [142] 975; Question (Lord Lyndhurst), [143] 1; Observations (Lord Lyndhurst), 710
 c. Address moved (Lord J. Russell), [143] 741; Motion neg. 801
Austrian Occupation in, l. Motion postponed [141] 1593
Conferences at Paris, c. Question (Mr. Bowyer), [141] 47

*JACKSON, Mr. W., Newcastle-under-Lyme Metropolitan Improvements, [142] 550**Japan, Convention with.*

- c. Question (Mr. Cairns), [140] 838

*JOHNSTONE, Mr. J., Clackmannan, &c. Parochial Schools (Scotland), 2R. [142] 893**Joint-Stock Banks Bill.*

- c. Leave, [141] 434; 1R.* 435; 2R.* 778; Com. 1469; Adj. Debate, [143] 1062; Amend. (Mr. Vance), *ib.*; Amend. neg. 1063; 3R. Amend. (Mr. (Vance), [o. q. A. 92, N. 12, M. 80] 1119
 l. 1R.* [143] 1063; 2R.* 1176; 3R.* 1419
 Royal Assent, [143] 1491

Joint-Stock Banks (Scotland) Bill.

- c. 1R.* [140] 522; 2R.* 611; Com. 698; 3R.* 716
 l. 1R.* [140] 806; 2R.* 1289; 3R.* 1563
 Royal Assent, [140] 2033

Joint-Stock Companies Bill,

- c. Leave, [140] 110; 1R.* 147; 2R.* 451;
 Com. [141] 543; Amend. (Mr. Spooner), [142] 633; Motion neg. 634;
 142] cl. 5, 634; Amend. (Mr. Gregson), 635; Motion neg. 637;
 . cl. 6, 637; cl. 13, 638;
 . cl. 19, 638; Amend. (Mr. Michell), 639; Amend. neg. ib.;
 . cl. 22, 639; cl. 24, 640;
 . cl. 29, Amend. (Mr. W. Brown), 640; [A. 36, N. 69, M. 33] 642;
 . cl. 37, 642; cl. 57, 645;
 . cl. 58, Amend. (Mr. W. Ewart), 646;
 . cl. 66, 651;
 . cl. 82, [A. 131, N. 52, M. 79] 652;
 . 3R. 897;
 . cl. 46, Amend. (Mr. Henley), ib., [o. q. A. 42, N. 82, M. 10] 899
 142] l. 1R.* 899;
 . Petition (Lord Overstone), 1474;
 . 2R. 1477, [Content 18, Non Content 5, M. 13] 1490;
 . Protest, 1490;
 . Com. 1890;
 . cl. 18, 1892;
 . 3R.* [143] 1
 Royal Assent [143] 710

Joint-Stock Companies Registration — Supply,

- c. [142] 1027

Joint-Stock Companies Winding-up Act Amendment Bill,

- l. 1R.* [141] 1947; 2R.* [142] 1; 3R.* 238
 c. 1R.* [142] 325;
 2R. 666, 1142; Amend. (Mr. S. Fitzgerald), 1151; Adj. Debate, 1766, [o. q. A. 112, N. 77, M. 35] 1770;
 Com. Amend. (Mr. Whiteside), [143] 1005, [o. q. A. 31, N. 40, M. 9] 1006; Bill withdrawn, ib.

JOLLIFFE, Sir W. G. H., Petersfield

- Army Estimates, [140] 1749, 1758, 2083; [142] 1719
 Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1059
 Education (Ireland), [142] 1666
 Enfield Rifles, [140] 1954
 Fire Insurances, 2R. [141] 1380
 Naval Review, The, [141] 1557
 Pauper, Scotch and Irish, Removal, Leave, 293, [141] 312
 Police (Counties and Boroughs), Com. cl. 11, Amend. [141] 1942; cl. 6, Amend. [142] 293, 298
 Poor Law Amendment, Leave, [141] 437
 Reformatories, Juvenile, [140] 99
 Shipping, Local Charges on, Appointment of, Com. [141] 689
 Supply—Royal Parks, Pleasure Grounds, &c., [141] 238—Embankment, &c., Vauxhall and Battersea Bridge, [142] 1037; — Embassy Houses Abroad, 1043; [143] 275; — St. James's Park, [142] 1416; — Disembodied Militia, [143] 288, 289

JONES, Rear Adm. T., Londonderry Co.

- Bleaching, &c., Works (No. 2), 2 R. [143] 223
 Ministers' Money (Ireland), Com. moved for, [140] 1006
 Talbot v. Talbot, Case of, Papers moved for, [140] 1562

Judges and Chancellors' Bill,

- c. Leave, [142] 452; 1R.* 466; 2R.* 1807;
 Com. Amend. (Mr. Malins), [A. 25, N. 31, M. 6] 2045; 2nd Div. [A. 22, N. 31, M. 9] ib.

Judgments Execution Bill,

- c. Leave, [140] 182; 1R.* 183; 2R.* [143] 206;
 Com. Amend. (Mr. I. Butt), 207; Amend. withdrawn, 210; Amend. (Col. French), 537, [o. q. A. 74, N. 69, M. 5] 538; Adj. moved (Mr. Vance), [A. 63, N. 78, M. 10] ib.
 Amend. (Mr. Whiteside), [o. q. A. 51, N. 39, M. 12], 1002;
 Bill withdrawn, 1003

Judicial Procedure, &c. (Scotland), Bill

- c. 1R.* [141] 1908; 2R.* [142] 325; 3R.* 922
 l. 1R.* [142] 949; 2R.* [143] 1063; 3R.* 1347
 Royal Assent, [143] 1491

Judicial Reflection on Members,

- l. Question (Viscount St. Vincent), [143] 1423;
 —see India, Law Expenses

Judicial Statistics,

- l. Res. (Lord Brougham), [140] 1674; Adj. Debate [141] 38; Motion withdrawn, 35

Judicial Statistics Bill,

- l. 1R.* [142] 238

Juries (Ireland) Bill,

- c. 1R.* [140] 219;
 Postponement of, 2R. [140] 970; 2R. Amend. (Mr. M'Mahon), [141] 1469

Justice, Public, Department of

- c. Observations (Mr. Napier), [143] 119

Justices of the Peace Qualification Bill,

- c. 1R.* [140] 681;
 2R. 1438;
 Com. cl. 3, [141] 1105;
 cl. 7, Amend. (Mr. Child), 1106; Amend. (Mr. Vansittart), 1109, [r. p. A. 115, N. 74, M. 41] 1113, [142] 476;
 cl. 11, 477;
 cl. 13, 479; cl. neg. 480;
 cl. 14, [A. 97, N. 99, M. 2] 480; [r. p. A. 135, N. 73, M. 62] 481

Juvenile Convict Prisons (Ireland) Bill,

- c. 1R.* [140] 611; 2R.* [141] 140; 3R.* [142] 325
 l. 1R.* [142] 401; 2R.* 899; 3R.* 1219
 Royal Assent, [142] 1771

Juvenile Offenders (Ireland) Bill,

- c. 1R.* [140] 150;
 2R. 495

Kars, Fall of

- l.* Observation (Earl of Malmesbury), [140] 2095; Question (Earl of Ellenborough), [141] 29; Notice of Motion (Earl of Malmesbury), 1383; Motion discharged, 1891
- c.* Question (Mr. Whiteside), [140] 1051; Motion (Mr. Whiteside), [141] 1594; Adj. moved (Mr. J. G. Phillimore), 1888; Adj. Debate, 1718; Amend. (Mr. K. Seymour), 1728; Adj. moved (Sir Bulwer Lytton), 1779, [A. 173, N. 243, M. 70] 1781, 1802, [o. q. A. 451, N. 52, M. 399] 1902, [m. q. A. 176, N. 303, M. 127] *ib.*

Kars and Ismail, Fortifications of

- c.* Question (Sir De L. Evans), [142] 1496;—see *Ismail*

Kars, Defenders of

- c.* Question (Mr. Oliveira), [142] 326;—see *Lake, Col.—Teesdale, Col.—Thompson, Capt.*

KEATING, Mr. H. S., Reading

- County Courts, [140] 152
- Ecclesiastical Courts Jurisdiction, Leave, [140] 399
- Wills and Administrations, Com. [143] 299

KELLY, Sir F., Suffolk, E.

- Elections, Corrupt Practices at, [142] 553
- Fire Insurances, Com. [142] 394; *cl.* 2, 396, 397, 398
- Joint-Stock Companies, Com. *cl.* 6, [142] 637; *cl.* 13, 638; *cl.* 29, 640; *cl.* 58, 646, 651
- Judgments Execution, Leave, [140] 183
- Metropolitan Improvements, [142] 550
- Nawab of Surat, [143] 674
- Nawab of Surat Treaty, Rep. Amend. [142] 1298, 1311, 1312, 1314, 1316, 1649, 1652, 1653; 3R. 1898
- Perth and Melfort's, Earl of, Compensation, Rep. [142] 1316, 1317, 1319
- Shipping, Local Dues on, 2R. [140] 1383, 1388
- Standing Orders, Res. [143] 1106
- Statute Law Commission, [141] 1181
- Statute Law, Consolidation of the, Leave, [140] 718, 748, 759; [143] 558
- Statutes at Large, [140] 994
- Supply—Statute Law Commission, [142] 869, 878
- Wills and Administrations, Leave, [141] 219; 2R. [142] 2014

KENDALL, Mr. N., Cornwall, E.

- Advowsons, 2R. [142] 467
- Civil Service Committee, [142] 1163
- County Courts Acts Amendment, Com. *cl.* 72, (E) Amend. [143] 705
- Dissenters' Marriages, Com. *cl.* 4, [142] 945
- Lunatic Asylums (Ireland) (No. 2), Com. *cl.* 4, [142] 1765
- Mines, Rating of, Leave, [141] 1467
- Police (Counties and Boroughs), Com. *cl.* 6, [142] 304
- Supply—Embankment, &c., Vauxhall and Battersea Bridge, [142] 1037

KENNEDY, Mr. T., Louth

- Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 958
- Dwellings for Labouring Classes (Ireland), 2R. Adj. moved [140] 1857, 1859; Com.

[cont.]

KENNEDY, Mr. T.—continued.

- Amend. [141] 1787; *cl.* 2. 1798; *add. cl.* [142] 1662
- Education (Ireland), Address moved, Amend. [142] 1600
- Hinds, Miss, Murder of, [142] 277
- Judicial Bench (Ireland), Returns moved for, Amend. [140] 768
- Juvenile Offenders (Ireland), 2R. [140] 496
- Maynooth College Com. [141] 1076
- Naval Review, The, [141] 1401
- Nisi Prius, Clerks in (Dublin), [142] 1230
- Reformatory Schools (Scotland), 2R. [141] 14
- Tenant Right (Ireland), Com. [143] 533

KERSHAW, Mr. J., Stockport

- Supply—Nonconforming, &c., Ministers (Ireland), Amend. [141] 1244

KING, Hon. P. J. L., Surrey, E.

- Burlington House, [140] 151
- Laws, Amendment of the, Res. [140] 643
- Statute Law Commission, [141] 871, 1181
- Statute Law, Consolidation of the, Leave, [140] 752; [143] 557
- Statutes at Large, [140] 986, 999
- Supply—Statute Law Commission, [142] 865, 879

KINNAIRD, Lord

- St. James's Park, [141] 771

KINNAIRD, Hon. A. F., Perth

- Abjuration, Oath of, Com. *cl.* 2, [142] 605
- Charities, Com. *cl.* 1, [143] 1062
- Chelsea Commission Report, [143] 1273
- Fire Insurances, 2R. Adj. moved, [141] 1377
- London and Durham, Bishops of, Retirement, [143] 1367; 3R. 1430
- Museums, &c., Opening of, on Sunday, [140] 219
- Navy Estimates, [140] 586
- Onde, Annexation of, Returns moved for, [140] 1857
- Physicians, College of, [141] 872; [143] 733
- Reformatory Schools (Scotland) 2R. [141] 17
- St. James's Park, Com. moved for, [140] 1392
- Supply—Education (Ireland), [141] 528;—Consular Establishments, 1023;—Civil Contingencies, [142] 1336;—St. James's Park, 1416

KIRK, Mr. W., Newry

- Bleaching Works (No. 2), 2R. Amend. [142] 1053; [143] 221
- Dwellings for Labouring Classes (Ireland) Com. *cl.* 2, [141] 1798
- Education (Ireland), Res. [142] 1821
- Established Church (Ireland), Com. moved for, [142] 737
- Grand Juries (Ireland) (No. 2), 2R. [143] 1275
- Factories, Leave, [140] 1673; Com. *add. cl.* [142] 564, 565
- Lunatic Asylums (Ireland) (No. 2), Com. *cl.* 3, [142] 1761
- Maynooth College, Com. [141] 1096
- Partnership Amendment (No. 2), 2R. Adj. moved, [142] 661, 665
- Shipping, Local Charges on, Com. moved for, [141] 218
- Supply—Theological Professors (Belfast), [141] 592, 600;—Nonconforming, &c., Ministers (Ireland), 1242, 1246

KNIGHT, Mr. F. W., *Worcestershire, W.*
 Health, Public, Com. Amend. [143] 495
 Pauper, Scotch and Irish, Removal, Leave,
 [141] 313
 Police (Counties and Boroughs), 2R. [140]
 697, 2186; Com. cl 2, [141] 1585; cl. 6,
 [142] 296, 300
 Supply—Charity Commission, [142] 863

KNIGHTLEY, Mr. R., *Northampton, S.*
 Agricultural Statistics, 2R. [142] 1770
 Medjedjie, Order of the, [142] 2091

KNOX, Lt.-Col. B. W., *Marlow*
 Army Estimates, [140] 1261, 1736, 1746, 1764,
 2070
 Army, Staff of the, Res. [142] 1691
 Commissions of Deceased Officers, Address
 moved, [142] 1528
 Horses of Officers in the Crimea, [142] 427

**LABOUCHERE, Rt. Hon. H. (Secretary of
 State for the Colonies), *Taunton***
 Army Estimates, [142] 1554
 Australia, Steam Communication with, [140]
 716
 Bay Islands, Colony of, [140] 2112
 Beatson, General, [143] 974
 Cape of Good Hope, Reinforcements for the,
 [143] 863, 975
 Capital Punishment in the Colonies, [143] 975
 Central America, [143] 645
 Civil Service, Admissions to the, Com. moved
 for, [141] 1440
 Danubian Principalities, [143] 1040
 Demerara, Riots in, [141] 2031; [142] 1086
 Education, (Ireland), Res. [142] 1840, 1885
 Import Duties—Newfoundland—Gold Coast,
 [141] 45
 Italian Legion, The, [142] 1401
 Kars, Fall of, Res. [141] 1614
 Medjedjie, Order of the, [142] 2091
 National Gallery, Site of the, Address moved,
 [142] 2125
 New Zealand, Salary of the Bishop of, [143]
 822
 Perth and Melfort's, Earl of, Compensation,
 Rep. [142] 1317
 Shipping, Local Charges on, Com. moved for,
 [141] 213; Appointment of, Com. 687
 Shipping, Local Dues on, 2R. [140] 1420
 Supply—North American, Provinces,
 [141] 1001, 1002;—Indian Department, Canada,
 . ib.;—West Indies (Governor, &c.), 1003,
 . 1004;—Stipendiary Magistrates, 1009;—
 . Falkland Islands;—Emigration, 1010, 1011,
 . 1012;—Nonconforming, &c., Ministers (Ire-
 . land), 1246:
 [142] Inspectors of Corn Returns, 1029;—Orange
 . River Territory, 1052;—Cape of Good Hope,
 . 1108
 Tasmania, Governor of, [140] 1312
 Transportation, Com. moved for, [141] 417,
 419
 West India Loans, 3R. [142] 1890
 West Indies—Geological Survey, [143] 508
 West Indies—Postal Communication with,
 [140] 717

***Labourers' Dwellings Act, 1855, Amend-
 ment Bill,***
 l. 1R.* [143] 229; 2R.* 540

LAPPAN, Captain R. M. *St. Ives*
 Army Estimates, [142] 1555, 1556
 Kars, Fall of, Res. [141] 1828

LAING, Mr. S., *Wick, &c.*
 Billeting (Scotland), [141] 577
 Canada, Despatch of Troops to, [141] 1536,
 1538
 Income and Property Tax, [141] 653
 Partnership Amendment, 2R. [140] 488

Lake, Colonel,
 c. Question (Mr. Oliveira), [143] 118

Lampeter College,
 c. Question (Mr. L. Davies), [141] 468

Lands Improvement, Commissioners of,
 c. Question (Lord Lovaine), [143] 332

LANGTON, Mr. W. H. G., *Bristol*
 Australia—Mail Service, [143] 1425, 1426
 Health, Public, Com. [143] 498

**LANSDOWNE, Marquess of (Member of the
 Cabinet without Office)**
 Abjuration, Oath of, 2R. [142] 1804
 Appellate Jurisdiction Com. [142] 915, 916
 Capital Punishment, Com. moved for, [142]
 251
 Divorce and Matrimonial Causes, Com. [142]
 1972
 Education, Vice President of Committee of
 Council on, 2R. [140] 823
 Incumbered Estates (Ireland), 3R. [143] 1022
 Italy, Affairs of, [143] 728
 Judicial Reflections on Members, [143] 1423
 Peerages for Life, Com. moved for [140] 511;
 Com. 610; Report, 1297
 Portraits, National Gallery of, [140] 1780
 St. James's Park, [141] 766, 772; [142] 584,
 586
 Tickets of Leave—Secondary Punishments,
 [141] 1471
 Truro, Lord, Library of the late, [141] 127,
 134
 Williams, Sir W. F., Annuity, 3R. [142] 1678

LASLETT, Mr. W., *Worcester*
 Carlisle Canonries, Leave, [140] 896
 Justices of the Peace Qualification, 2R. [140]
 1444

Law Courts and Officers—Supply,
 c. [141] 269

Laws, Amendment of the.
 c. Res. (Mr. Napier), [140] 614; Amend. (Sir
 G. Grey), 667

LAYARD, Mr. A. H., *Aylesbury*
 Army Estimates, [140] 2081, 2089; Amend.
 [141] 195
 Crimean Commission Report, [140] 834, 1051,
 1615, 1618, 1626; [143] 1426, 1428
 Edmonton Militia, [140] 1576
 Kars, Fall of, Res. [141] 1756
 National Gallery, Com. cl. 1, [141] 1946
 Navy, Masters in the, [141] 1533, 1927

LAYARD, Mr. A. H.—continued.

- Peace, Treaty of, [141] 1707; Address moved, 2071
 Persia, Relations with, [140] 1713, 1724; [141] 162
 Redan, Attack on the, [140] 835, 836, 914, 915
 Scotch Universities, [140] 2043
 Spithead, Naval Review at, [141] 1183
 Supply—British Museum, [141] 1356
 Turkey—Conferences at Constantinople, [140] 611

Leases, Registration of, (Scotland) Bill,

- c. 1R.* [142] 258; 2R.* 550; 3R.* [143] 495
 l. 1R.* [143] 490

Leaving and Dolly-Shops, Suppression of,

- c. Questions (Mr. Brady), [141] 1702, 2031

LEEDS, Duke of

- Militia, The, [142] 1572

LEFEVRE, Rt. Hon. CHARLES SHAW, see SPEAKER, The**Legal Education,**

- l. Petition (Lord Brougham), [140] 1445
 c. Question (Mr. Napier), [141] 2030

LEGH, Col. G. C., Cheshire, N.

- Army Estimates, [140] 1285, 1286

Legion of Honour,

- l. Question (Lord Calthorpe), [143] 1348
 c. Question (Mr. H. Baring), [142] 2075—see *French War Medals*

LENNOX, Lord, H. G. C. G., Chichester

- Executions, Public, [141] 278
 Police (Counties and Boroughs), 2R. [140] 691; Com. cl. 2, [141] 1584; cl. 10, Amend. 1937

LEWIS, Rt. Hon. Sir G. C., see CHANCELLOR OF THE EXCHEQUER**Ley, Mr. W., (late Clerk Assistant of the House of Commons)**

- c. Vote of Thanks to (Visct. Palmerston), [140] 224

LIDDELL, Hon. H. G., Northumberland, S.

- Cape of Good Hope, State of the, [143] 336
 Carlisle Canonries, Leave, [140] 896
 Coalwhippers (Port of London), 2R. [142] 1732
 Customs Duties at Spanish Ports, [141] 1799
 Death, Punishment of, Com. moved for, [142] 1258
 Education, National, Com. [141] 807
 Evictions (Ireland)—Case of Mr. Pollok, [142] 703
 Kara, Fall of, Res. [141] 1834
 Parishes, Formation of, 2R. [140] 686, 688
 Public Works, Com. cl. 2, Amend. [141] 626
 Reformatory Schools, Com. add. cl. [142] 570, 574

LIDDELL, Hon. H. G.—continued.

- Reformatory Schools (Scotland), 2R. [141] 16
 Scientific and Literary Societies, Com. [143] 228
 Shipping, Local Charges on, Com. moved for, [141] 218
 Shipping, Local Dues on, Leave, [140] 176; 2R. 1374
 Supply—Charity Commission, [142] 857;—Education, 1381

Life Insurance Companies,

- c. Question (Mr. Cowan), [140] 1951

Lighthouses Abroad—Supply,

- c. [142] 1050

Limited Liability,

- l. Returns moved for (Lord Monteagle), [141] 134; Petition (Lord Overstone), [142] 950

LINDSAY, Col. Hon. J., Wigan

- Army Estimates, [140] 1747, 2077, 2079; [141] 192, 209; [142] 1703, 1707, 1726
 Army, Sale of Commissions in the, Com. moved for, [140] 1829
 Barrack Accommodation, [140] 2193
 Beatson, General, [143] 1261
 Commissions of Deceased Officers, Address moved, [142] 1529
 French War Medals, [141] 1048
 Lieutenant Colonels in the Army, Address moved, [143] 524
 Staff Pay and Allowances, [142] 1992, 2085; [143] 678

LINDSAY, Mr. W. S., Tynemouth

- Australia, Steam Communication with, [141] 279
 Baltic, Operations in the, Com. moved for, [141] 108
 Established Church (Ireland), Com. moved for, [142] 739
 Joint-Stock Companies, Com. cl. 29, [142] 641; cl. 37, 644
 Napier, Sir C., at Acre, [141] 511
 Naval Administration, Com. moved for, [140] 439
 Naval Review, The, [141] 1162, 1541
 Navy Estimates, [142] 1433
 Partnerships Amendment (No. 2), Com. [143] 362; 3R. cl. 3, 805
 Peace, Treaty of, Address moved, Adj. moved, [141] 2113; [142] 18
 Shipping, Local Charges on, Com. moved for, [141] 210
 Shipping, Local Dues on, Leave, [140] 176; 2R. 1386, 1411
 Supply—Consular Establishments, [141] 1023
 West Indies, Postal Communication with, [140] 716

Liverpool, Customs Establishment at,

- c. Question (Mr. Horsfall), [140] 1951

Lives, Insurance on (Abatement of Income Tax), Continuance Bill,

- c. 1R.* [142] 977; 2R.* 1085; 3R.* 1297
 l. 1R.* [142] 1324; 2R.* 1576; 3R.* 1771
 Royal Assent, [143] 1

LLANDAFF, Bishop of
Church Rates, [141] 28

LOCKE, Mr. J. *Honiton*

National Gallery, Site of the, Address moved,
[142] 2151

LOCKHART, Mr. E., *Selkirkshire*

Parochial Schools (Scotland), Lords' Amends.,
[143] 1175

Supply—Royal Parks, Pleasure Grounds, &c.
[141] 238

Voters, Registration of (Scotland), Com. cl. 1,
[142] 1683; cl. 55, Amend. 1684

LOCKHART, Mr. W., *Lanarkshire*

Army Estimates, [142] 1724

Militia, The Scotch, [142] 429

Parochial Schools (Scotland), 2R. [141] 1586;
Com. [142] 1467; Lords' Amends. [143]
1175

Voters, Registration of (Scotland), Com. [142]
1682

London and Durham, Bishops of, Retirement,

c. Question (Mr. Gregson), [143] 18

London and Durham, Bishops of, Retirement Bill,

[143] l. 1R. 546;

. 2R. 814; Amend. (Lord Redesdale), 822,
[o. q. Content 47, Not Content 35, M. 12]
840;

. Protest, 841;

. Com. 948;

. cl. 1; cl. 3, 962;

. 3R. Amend. (Lord Redesdale), 1094, [o. q.
Content 26, Not Content 15, M. 11]
1101;

. Protests, 1102

[143] c. 1R.* 1103;

. Question (Sir J. Graham), 1171;

. 2R. 1266; Adj. Debate, Amend. (Sir W.
Heathcote), 1276, [o. q. A. 151, N. 72,
M. 79] 1344;

. Com. 1355; Amend. (Mr. Hadfield), 1359;
Amend. withdrawn, 1368;

. cl. 1, Amend. (Mr. Gladstone), 1368;
Amend. neg. 1382;

. cl. 3, Amend. (Mr. T. Duncombe), 1382;
[o. q. A. 105, N. 30, M. 75] 1384; Amend.

(Mr. Roebuck), [o. q. A. 104, N. 19,
M. 85] ib.; 2nd Amend. (Mr. Roebuck),
1408, [o. q. A. 52, N. 19, M. 33] 1412;

. cl. 5, Amend. (Mr. Roebuck), 1414; Amend.
withdrawn, ib.;

. Preamble, 1415; Amend. (Mr. Henley),
1430

. 3R. 1429

. l. Commons' Amends. 1479

. Royal Assent, 1491

London Corporation Bill,

c. Leave, [141] 314; 1R.* 333;

Question (Mr. Hankey), [142] 1686, 1993;
(Sir J. Duke), [143] 308

London University—Supply,

c. [141] 589

LOVAINE, Lord, *Northumberland, N.*

Army Estimates, [140] 1281, 1755, 1756

Crimean Commission Report, [140] 1665

Dissenters' Marriages, Com. cl. 1, [142] 940;
cl. 4, 942

Factories, Com. cl. 4, [142] 561

Justices of the Peace Qualification, Com. cl. 14,
[142] 480

Lands Improvement, Commissioners of, [143]
332

Mortars, Defective, [141] 1338

Peace, Celebration of, [141] 1540, 1541

Police (Counties and Boroughs), Leave, [140]
241; 2R. 695; Com. cl. 1, [141] 1573; cl.

3, 1929; cl. 7, 1932; Amend. 1934; cl. 6,

[142] 296; add. cl. 610, 614

Scientific and Literary Societies, Com. cl. 2,
[142] 938; [143] 226, 229

Supply—General Board of Health, [141]
1371;—Constabulary Police at Aldershot,
[142] 1031

LOWE, Rt. Hon. R. (Paymaster of the
Forces, and Vice President of the
Board of Trade), *Kidderminster*

Coalwhippers (Port of London), 2R. [142]
1728, 1733

Indian Budget, The, Com. Res. [143] 1161

Joint-Stock Companies, Leave, [140] 110, 111,

144; Com. [141] 543; [142] 634, 635,

636; cl. 5, 637; cl. 13, 638; cl. 19, 639; cl.

24, 640; cl. 29, 641; cl. 37, 642, 643, 644;

cl. 57, 645; cl. 58, 651; 3R. 897; cl. 46,
899

Joint-Stock Companies Winding-up Acts
Amendment, 2R. [142] 666

Mercantile Law Amendment, 2R. [142] 2044;

[143] 809, 810; Com. cl. 2, 1009; 3R. 1119

Merchant Seamen, [143] 1034

Nawab of Surat Treaty, 3R. [142] 1904

Partnership Amendment, Leave, [140] 110,
111, 144; 2R. 259, 260, 261, 490; Com.
2200

Partnership Amendment (No. 2), 2R. [142]
662; Com. [143] 341, 347, 354; cl. 3, 365,

367, 369; 3R. cl. [143] 802; That the Bill

do pass, 808, 809

Railway Accidents, [142] 2032

Railway Legislation, [140] 1953

Session, Review of the, Return moved for,
[143] 1477

Shipping, Local Charges on, Com. moved for,
[141] 210; Appointment of Com. 868

Shipping, Local Dues on, Leave, [140] 156,
177; 2R. 261, 262, 1320, 1338, 1411, 1953

LUCAN, Earl of

Crimean Commissioners' Report, [140] 505;—

Board of Inquiry, [143] 490, 491, 640, 641;

Address moved, 1013, 1016, 1022; Explana-
tion, 1176, 1178, 1180

Lunacy, Commissioners in—Supply,

c. [141] 262

Lunatic Asylums (Ireland) Bill,

c. 1R.* [141] 1048

Lunatic Asylums (Ireland) (No. 2) Bill,
c. 1R.* [142] 588; 2R.* 1573;
Com. cl. 3; Amend. (Col. Dunne), 1758,
[A. 82, N. 81, M. 1] 1762;
cl. 4, Amend. (Mr. Davison), 1762;
cl. 8, 1765

Lunatic Asylums Acts Amendment Bill,
c. 1R.* [143] 641; 2R.* 753; 3R.* 1027
l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
Royal Assent, [143] 1491

Lunatic Asylums (Superannuation) (Ireland) Bill,
c. 1R.* [143] 733; 2R.* 842; 3R.* 1103
l. 1R.* [143] 1063; 2R.* 1176; 3R.* 1419
Royal Assent, [143] 1491

LUSHINGTON, Mr. C. M., *Canterbury*,
Civil Service, Admissions to the, Address moved,
[141] 1428

LYNDHURST, Lord
Abjuration, Oath of, 2R. [142] 1772, 1796
Abjuration, Oath of, Amendment, Com. [142]
2050, 2058, 2059; Amend. 2063; Bill with-
drawn, [143] 5, 6, 7
Cambridge University, Com. cl. 44, Amend.
[143] 310, 312
Danubian Principalities, [142] 668, 671
Divorce and Matrimonial Causes, 2R. Amend.
[142] 408, 426; Com. 1968, 1978; Rep.
[143] 249
Hinds, Miss, Murder of, [142] 178, 180
Italy, Austrian occupation in, Motion with-
drawn, [141] 1593;—Affairs of, [143] 1, 4,
710
London and Durham, Bishops of, Retirement,
2R. [143] 834
Patent Laws, The, [143] 1419
Peerages for Life, [140] 263; Com. moved
for, 508, 509, 510; Com. 591, 593, 601, 602,
603, 605, 609, 900, 901, 905, 907, 908, 1153,
1165,* 1175
Poland, [143] 632
Title Deeds, Registration of, [143] 1064
Truro, Lord, Library of the late, [141] 129, 134
Westminster, New Palace of,—Decay of Stone
Work, [143] 1419, 1420

LYTTELTON, Lord
Cambridge University, Com. cl. 6, Amend.
[143] 309; cl. 31, Amend. *ib.*
Indian Accounts, Returns moved for, [142]
629
Ticket of Leave—Secondary Punishment, Ad-
dress moved, [141] 1159, 1167

LYTTON, Sir E. Bulwer, *Hertfordshire*
Kars, Fall of, Res. Adj. moved, [141] 1779,
1804
United States, The—Enlistment, [141] 1000;
Relations with, 2033, 2034, [142] 1087

M·CANN, Mr. J., *Drogheda*
Bankruptcy and Insolvency (Ireland), 2R.
[142] 2158
Chancery Court of (Ireland), (Incumbered Es-
tates Court Abolition) 2R. [140] 926
Incumbered Estates (Ireland), 2R. [143] 379
VOL. CXLIII. [THIRD SERIES.] [cont.]

M·CANN, Mr. J.—*continued.*

Joint-Stock Companies, Coin. cl. 5, [142] 637
Judgments, Execution [143] 538
Maynooth College, Com. [141] 1063
Navy Estimates, [140] 585; [142] 1458
Parochial Schools (Scotland), Com. [142]
1464
Poor Law Amendment (No. 2), 2R. [142] 2043

MACARTNEY, Mr. G., *Antrim Co.*
Aldershot Camp Bill, [141] 386
Australia, Postal Communication with, [142]
552, 1230
Bankruptcy and Insolvency (Ireland), 2R.
Amend. [142] 2157
Dublin, Postal Communication with, [142] 552
Education (Ireland), Papers moved for, [141]
435
Grand Jury Assessment (Ireland), 3R. *add. cl.*
[143] 109
Incumbered Estates Court, Returns moved for,
[141] 546
Prisons (Ireland), Com. [143] 114; cl. 3.
Amend. 115; cl. 4, 116
Sadleir, James—The Tipperary Bank, [143]
644, 645
St. James's Park, [141] 870
Supply—Royal Parks, Pleasure Grounds, &c.,
[141] 239;—Public Works (Ireland), 254;—
Audit of Public Accounts, 256;—Education
(Ireland), 528;—Spurn Point, [142] 1045
Tea Duties, Com. moved for, [140] 1851, 1854

MACEVY, Mr. E., *Meath*
Dwellings for Labouring Classes (Ireland), 2R.
Adj. moved, [140] 1858, 1859

MACGREGOR, Mr. James, *Sandwich*
Billeting (Scotland) [141] 584
Financial Statement—Ways and Means, [140]
1245
Greece, State of, [142] 269, 852
Imperial Hotel Company, 2R. [140] 1701
Maynooth, College, Leave, [141] 1103; 2R.
[142] 1916
Plumstead, Church Accommodation at, [142]
1106
Railway Accidents, [142] 2093
Stamp Duties, Com. cl. 1, [143] 948
Supply—British Museum, [141] 601;—British
Historical Portrait Gallery, [142] 1123

MACGREGOR, Mr. John, *Glasgow*
Billeting (Scotland), [141] 573
Drafts on Bankers, 2R. [141] 440
Established Church (Ireland), Com. moved for,
[142] 770
Joint-Stock Banks, Leave, [141] 435
Navy Estimates [140] 582
Nawab of Surat Treaty, Rep. [142] 1315
Parochial Schools (Scotland), Lords' Amends.
[143] 1173
Partnership Amendment (No. 2), 3R. cl. 3,
[143] 802
Scientific and Literary Societies, Com. [143]
228
Shipping, Local Charges on, Appointment of
Com. [141] 681
Supply—Customs Department, [140] 860,
1671;—Royal Society [141] 622
United States, Relations with the, [143] 203

MACKIE, Mr. J., *Kirkcudbright*

Billeting (Scotland), [141] 585
 Education (Scotland), Leave, [141] 672
 Income and Property Tax, [141] 657
 Parochial Schools (Scotland), 2R. [142] 803 ;
 Com. 1471

MACKINNON, Mr. W. A., *Rye*

Income and Land Taxes, 3R. [143] 1029
 Masters and Operatives, Com. moved for, [140]
 982, 986
 Science, Advancement of, Com. moved for,
 [142] 1265
 Shipping, Local Dues on, [140] 1952

M'MAHON, Mr. P., *Wexford Co.*

Chancery, Court of (Ireland) (Incumbered Es-
 tates Court Abolition), 2R. [140] 945
 Chancery, Court of (Ireland) (Receivers), Com.
 cl. 1, [143] 506
 County Courts Acts Amendment, Com. cl. 20,
 Amend. [143] 695
 Dwellings for Labouring Classes (Ireland),
 Com. cl. 2, [141] 1793, 1794, 1795, 1797 ;
 add. cl. [142] 1662, 1664 ; 3R. 2159
 Ecclesiastical Courts Jurisdiction, Leave, [140]
 404
 Evictions (Ireland)—Case of Mr. Pollok, Com.
 moved for, [141] 1707, 1718 ; [142] 701, 703
 Fisheries (Ireland), Com. moved for, [142]
 1296, 1297
 Greece, State of, [142] 271
 Hinds, Miss, Murder of, [142] 284
 Judgments Execution, Com. [143] 587
 Juries (Ireland), 2R. Amend. [141] 1469
 Laws, Amendment of the, Res. [140] 663
 Offences, Trial of, 2R. [140] 1769
 Peace Preservation (Ireland), Com. Amend.
 [142] 1573
 Statute Law, Consolidation of the, Leave, [140]
 755
 Supply—Education (Ireland), [141] 534 ;—
 Queen's University (Ireland), 590, 591 ;—
 British Historical Portrait Gallery, [142]
 1123
 Tenant Right (Ireland), Com. [143] 534

***Madrid, British Protestant Cemetery at—
 Supply,***

c. [143] 274

MAGAN, Capt. W. H., *Westmeath*

Dwellings for Labouring Classes (Ireland),
 Com. [141] 1792
 Grand Jury Assessment (Ireland), Com. cl. 6,
 [142] 617
 Lunatic Asylums (Ireland) (No. 2), Com. cl. 3,
 [142] 1762
 Prisons (Ireland), Com. cl. 4, [143] 116

Magdalen Hospital (Bath) Bill,

l. 1R.* [142] 949 ; 2R. 1219 ; 3R.* 1771
 c. 1R.* [142] 1987 ; 2R.* [143] 252 ; 3R.*
 549
 Royal Assent, [143] 710

Magnetic Observations—Supply,

c. [141] 620

MAGUIRE, Mr. J. F., *Dungarvan*

Coast-Guard Service, 2R. [143] 859
 Demerara, Riots in, [141] 2031
 Dublin Metropolitan Police, 2R. [143] 117
 Dwellings for Labouring Classes (Ireland), Com.
 [141] 1791
 Evictions (Ireland)—Case of Mr. Pollok, Com.
 moved for, [141] 1717 ; [142] 709
 Juvenile Offenders (Ireland), 2R. [140] 497
 Kars, Fall of, Res. [141] 1766
 Maynooth College, 2R. [142] 1926
 Militia Pay, Com. [143] 861
 Militia, The Irish, [143] 740
 Ministers' Money (Ireland), Com. moved for,
 [140] 1007
 Ministers' Money (Ireland), 2R. [141] 1131
 Navy Estimates, [140] 575, 583 ; [142] 1446,
 1450
 Pauper Removal, Scotch and Irish, 2R. [142]
 2157
 Peace Preservation (Ireland), 2R. Amend.
 [142] 1391 ; Com. 1576 ; cl. 4, 1578
 Reformatory Schools (Scotland), 2R. [141] 3,
 10 ; Com. cl. 1, [142] 237
 Supply—General Board of Health, [141] 1368
 Tenant Right (Ireland), 2R. [142] 938 ; Com.
 [143] 533

MALINS, Mr. R., *Wallingford*

Appellate Jurisdiction, [142] 2097 ; Com. [143]
 584, 592
 Baltic, Operations in the, Com. moved for,
 [141] 109, 115
 Bank Charter Act, [142] 276
 Budget, The—Financial Statement, Res. [142]
 380
 Business, Public, [141] 174
 Cambridge University, Com. cl. 4, [142] 844
 Chancery, Court of (Ireland), (Incumbered Es-
 tates Court Abolition), Leave, [140] 208 ;
 2R. 947, 955
 Charitable Uses, 3R. [140] 1426
 County Court Judges, Salaries of, Address
 moved, [141] 304, 307
 County Courts Acts Amendment, Com. cl. 73
 (D), [143] 702
 Ecclesiastical Courts Jurisdiction, Leave, [140]
 400
 Ecclesiastical Courts, Reform of the, [143]
 681
 Estates, Leases and Sales of Settled, 2R. [143]
 946 ; Com. add. cl. 1049, 1050, 1052
 Joint-Stock Companies, Leave, [140] 139 ;
 Com. cl. 5, [142] 635 ; cl. 6, 637 ; cl. 13,
 638 ; cl. 22, 639 ; cl. 29, 640, 641 ; cl. 37,
 Amend. 643, 644 ; cl. 57, 645 ; cl. 58, 647,
 650
 Joint-Stock Companies Winding-up Acts Amend-
 ment, 2R. [142] 666, 668, 1142, 1147, 1148,
 1151, 1769 ; Com. [143] 1005
 Judges and Chancellors, Leave, [142] 460, 464 ;
 Com. Amend. 2045
 Judgments Execution, Com. [143] 539
 Kars, Fall of, Res. [141] 1785
 Laws, Amendment of the, Res. [140] 656
 Married Women's Reversionary Interest, Com.
 [141] 441, 442
 Married Women, Rights of, [142] 1277
 Mercantile Law Amendment, 2R. [143] 810 ;
 Com. cl. 2, 1000
 Monetary System, Com. moved for, [140]
 1493
 Mortars, Defective, [141] 479, 1326

[cont.]

MALINS, Mr. R.—continued.

- Napier, Sir C., at Acre, [141] 513
 Partnership Amendment, Leave, [140] 189;
 2R. 484
 Partnership Amendment (No. 2), Com. [143]
 341; cl. 3, 365, 368, 371; 3R. cl. 3, 808;
 That the Bill do pass, 809
 Poor Law Amendment, 2R. [142] 615
 Rolls, Master of the, and the Attorney General
 for Ireland, [143] 895
 Sadleir, James, Expulsion of, [143] 1407
 Specialty and Simple Contract Debts, Leave,
 [141] 428
 Statute Law Consolidation, Address moved,
 [141] 1468
 Supply—New Houses of Parliament, [141]
 243, 244;—Statute Law Commission, [142]
 873
 Trust Property, Criminal Appropriation of,
 Leave, [141] 433
 Wills and Administrations, 2R. [142] 1995,
 2033, 2039; [143] 266, 267; Com. 304

MALMESBURY, Earl of

- Abjuration, Oath of Amendment, Bill with-
 drawn, [143] 6
 Agricultural Statistics [140] 2214; Com. [141]
 458; 3R. 631
 Appellate Jurisdiction, 2R. [142] 788
 Burial Acts Amendment, 2R. [143] 110
 Burial-Ground—Blandford, [142] 1224; Great
 Torrington, 2067
 Business of the House, Res. [142] 246
 Cavalry and Artillery Horses in the Crimea,
 [141] 772, 774
 Circassia [142] 312
 Danubian Principalities, [142] 671
 Fire Insurances, 2R. [142] 672, 673
 Ismail and Reni, Dismantling of, [143] 1080
 Kars, Fall of, [140] 2095, 2096, [141] 32;
 Notice of Motion, 1383; Motion discharged,
 1691, 1692, 1693
 Naval Review, The, [141] 1388
 Peace, Treaty of, Address moved, Amend. [141]
 1967, 1989, 1993, 2004
 Peerages for Life, Report, [140] 1301
 St. James's Park, [141] 767; [142] 586
 Slave Trade—Brazil, Address moved, [143]
 1070, 1079
 Ticket-of-Leave System, Returns moved for,
 [140] 1403
 Thompson, Captain, Death of, [142] 1676
 Williams, Sir W. F., Annuity, 3R. [142] 1676

Malt, Drawback on,

- c. Question (Mr. Spooner), [141] 221

MANGLES, Mr. R. D., Guildford

- India, Administration of Justice in [142]
 1411
 Indian Budget, The, Com. Res. [143] 1168
 Nawab of Surat Treaty, Rep. [142] 1657; 3R.
 1905

**MANNERS, Rt. Hon. Lord J. J. R., Col-
chester**

- Address in Answer to the Speech, [140] 86
 Black Sea, Russian Forts on the, [141] 1908
 Bleaching, &c., Works, Leave, [140] 1851
 Church Rates Abolition (No. 2), 2R. Amend.
 [140] *1876, 1924

[cont.]

MANNERS, Rt. Hon. Lord J. J. R.—cont.

- Factories, 2R. [141] 368
 Kars, Fall of, Res. [141] 1676, 1680
 Oude, Annexation of, Returns moved for, [140]
 1855
 Peace, Treaty of, [141] 1801; Address moved,
 2049
 Poor Law Amendment, Leave, [141] 438
 Printing Expenses—Returns, [141] 387
 St. James's Park, [141] 1188
 Supply—Royal Palaces and Public Buildings,
 [141] 226, 228;—Royal Parks, Pleasure
 Grounds, &c. 230;—West Indies (Governors,
 &c.), 1006
 Williams, Sir W. F., Res. [142] 400

Marine Mutiny Bill,

- c. 1R.* [140] 1478; 2R.* 1574; 3R.* 2036
 l. 1R.* [140] 2095; 2R.* 2202; 3R.* [141]
 28
 Royal Assent, [141] 120

Marines.

- Marine Officers, c.* Question (Col. Buck), [142]
 1402
Vote of Thanks l. (Lord Panmure), [142]
 182
 c. (Visct. Palmerston), [142] 216

Maritime Law, International,

- l. Motion (Lord Colchester), [142] 481, [Content
 102, Not Content 156, M. 54] 547

Marriage Law Amending Bill,

- l. 1R. [141] 1587;
 2R. [142] 205;
 Com. 322; 3R.* 621
 c. 1R.* [142] 1573;
 2R. 2159;
 Rep. [143] 997; 3R.* 1027
 l. Commons' Amends. [143] 1352
 Royal Assent, [143] 1491

Marriage Law Amendment Bill,

- l. 1R. [141] 33;
 2R. 1475; Amend. (Bishop of Oxford), 1511,
 [o. q. Content 24, Not Content 43, M. 19]
 1528

**Marriage Law Amendment (No. 2) Bill,
See Marriage Law Amending Bill****Marriage Law, English and Scotch,**

- l. Petition (Lord Brougham), [141] 1381

**Marriage and Registration Acts Amend-
ment Bill,**

- c. 1R.* 2R.* 3R.*
 l. 1R.* [143] 110; 2R.* 490; 3R.* 1176
 Royal Assent, [143] 1491

**Married Women's Reversionary Interest
Bill,**

- c. 1R.* [140] 1406; 2R.* 1790;
 Com. [141] 441; 3R.* [142] 268
 l. 1R.* [142] 310

Married Women, Rights of,

- c. Motion (Sir E. Perry), [142] 1273; Motion
 withdrawn, 1285

MARTIN, Mr. P. W., Rochester

Corrupt Practices Prevention, Com. [143] 989
Police (Counties and Boroughs), Com. *add. cl.*
[142] 613

**MASSEY, Mr. W. N. (Under Secretary,
Home Department), Newport**

Aggravated Assaults, Leave, [141] 27
Bunhill Fields Burying-Ground, [140] 461
Burial-Grounds, [143] 862
Dissenters' Marriages, Com. *cl.* 4, [142] 941,
942, 944; *cl.* 11, 949
Justices of the Peace Qualification, Com. *cl.* 13,
[142] 480
Police (Counties and Boroughs), 2R. [140] 607;
Com. *cl.* 9, [141] 1937
Scientific and Literary Societies, Com. [143]
220

MASTERMAN, Mr. J., London

Drafts on Bankers, 2R. [141] 120
London Corporation, Leave, [141] 332
Mercantile Law Amendment, 2R. [143] 810
Partnership Amendment (No. 2), 2R. [142] 661

Masters and Operatives,

c. Com. moved for, (Mr. Mackinnon), [140]
982

Mathew, Mr. Consul,

c. Explanation (Mr. Gladstone), [143] 1488

Maynooth College Bill,

c. Leave, [141] 1102; Amend. (Mr. Hutchins),
[A. 132, N. 154, M. 22], 1103; [*o. q.* A. 159,
N. 142, M. 17], 1104; 1R.* *ib.*;
[142] 2R. 1906; Amend. (Mr. H. Herbert),
1918; [*o. q.* A. 174, N. 168, M. 6] 1962;
Adj. moved (Mr. Bowyer), 1965; Adj. De-
bate, 2046; Order for 2R. discharged, 2048;
—see *Ireland—Maynooth College*

MEAGHER, Mr. T., Waterford City,

Dwellings for Labouring Classes, (Ireland),
Com. *cl.* 2, [141] 1796
Maynooth College, Com. [141] 1081
Ministers' Money (Ireland), Com. moved for,
[140] 1004
Ministers' Money (Ireland), 2R. [141] 1115

Medical Officers,

c. Question (Major Reed), [143] 741

Medical Profession Bill,

c. Leave, [140] 497; 1R.* 504;
2R. 1012;
Com. [141] 335; Amend. (Mr. Walpole),
340, [*o. q.* A. 81, N. 116, M. 35] 347, 759

**Medical Qualification and Registration
Bill,**

c. 1R.* [141] 564; 2R.* 999

Medjedjie, Order of the,

c. Question (Mr. Knightley), [142] 2091

MELVILLE, Viscount

Army—Command in Chief, [143] 814

Members' Speeches,

c. Motion (Mr. Wilkinson), [143] 1226, [A. 30,
N. 57, M. 27] 1234

Menai Straits—Supply,

c. [142] 1046

Mercantile Law Amendment Bill,

l. 1R. [140] 1393; 2R.* 2033;
Com. [141] 1693;
cl. 1, 1695;
Rep. 1906;
3R. Order discharged, [142] 181;
Re-com. 1156; 3R.* 1395
c. 1R.* [142] 1493;
2R. 2044; Adj. moved (Mr. Watson), 2045;
Adj. Debate, [143] 809;
Com. *cl.* 2, Amend. (Mr. Henley), 1000;
cl. 6, [A. 95, N. 13, M. 82] 1001;
3R. 1118
l. Commons, Amend. [143] 1352
Royal Assent, [143] 1491

**Mercantile Law (Scotland) Amendment
Bill,**

l. 1R. [140] 1393;
2R. 2034;
Com. [141] 1696;
3R. Order discharged, [142] 182; 3R.* 1395
c. 1R.* [142] 1493; 2R.* 1987; 3R.* [143]
842
l. Royal Assent, [143] 1064

Merchant Seamen,

c. Question (Mr. Ridley), [143] 1034

**Merchant Seamen's Fund Act, Pensions
—Supply,**

c. [142] 1027

**Metropolis Local Management Act Amend-
ment Bill,**

c. 1R.* [140] 1478;
2R. 1859;
Question (Mr. T. Duncombe), 2037;
Com. 2094;
Question (Mr. W. Williams), [141] 470

**Metropolis Local Management Act Amend-
ment (No. 2) Bill,**

c. 1R.* [142] 1733; 2R.* 2071; 3R.* [143] 253
l. 1R.* [143] 306; 2R.* 490; 3R.* 1007
c. Lords' Amend. [143] 1416; Amend. (Mr.
Butler), 1417; Amend. withdrawn, 1418;
2nd Amend. [A. 8, N. 53, M. 45] *ib.*
l. Royal Assent, [143] 1491

Metropolitan Improvements,

c. Question (Mr. Jackson), [142] 550

MIALL, Mr. E., Rochdale

Aggravated Assaults, Leave, [141] 27
Bunhill Fields Burial-Ground, [140] 461
Church Rates Abolition, (No. 2), 2R. [140]
1922
Established Church (Ireland), [142] 713;
Com. moved for,* 715, 753
Ministers' Money (Ireland), 2R. [141] 1116
National Education, [140] 2002, 2063
Vaccination, 2R. [141] 276

MICHELL, Mr. W., Bodmin

Army Estimates, [142] 1701
 Finance Accounts, Annual, [143] 1220
 Health, General Board of, Continuance, Com. [143] 993
 Hospitals (Dublin), Com. [143] 970
 Joint-Stock Companies, Com. *cl.* 19, Amend. [142] 639
 Medical Profession, Com. [141] 338
 Police (Counties and Boroughs), 2R. [140] 696
 St. James's Park, Com. moved for, [140] 1389
 Supply—Customs Department, [140] 861;—
 Post Office Services, 866;—National Vaccine Establishment, [141] 1041, 1042;—
 General Board of Health, Amend. 1867;—
 Embankment, &c., Vauxhall and Battersea Bridge, [142] 1036, 1037;—St. James's Park, 1140, 1416
 Vaccination, 2R. [141] 23, 274; Com. [143] 553

MILES, Mr. W., Somersetshire, E.

Army Estimates, [140] 1286, 1749, 2059, 2069
 Army, Staff of the, [142] 2084
 Education, National, Com. [141] 937
 Justices of Peace Qualification, Com. *cl.* 7, [141] 1106; *cl.* 13, [142] 479
 Police (Counties and Boroughs), Com. *cl.* 1, [141] 1581; *cl.* 5, 1930; *cl.* 9, 1937; *cl.* 6, [142] 297
 Reformatories, Juvenile, [140] 97
 Reformatory Schools, Com. *add. cl.* [142] 572, 573
 Supply, [140] 1670;—General Board of Health, [141] 1368, 1373; Amend. 1374;—Education, [142] 1375

Military Rewards,

c. Question (Major Sibthorp), [141] 639; (Col. Lindsay), 1048; (Sir J. Pakington), 1182; (Mr. H. Baillie), 1325; (Mr. O. Stanley), 1530

Militia, The,

Allowances to, *c.* Question (Mr. Newdegate), [143] 679
Cornwall, The, *c.* Question (Mr. Robartes), [143] 12
Disembodied Militia—Supply, [143] 277
Disembodiment of the, *l.* Question (Earl of Donoughmore), [142] 1393; (Duke of Leeds), 1572; (Visct. Dungannon), [143] 1067
c. Question (Mr. Hume), [141] 565; (Col. Greville), 1926; (Lord R. Grosvenor), 2036; (Mr. Davison), [142] 16; [143] 14; (Mr. H. Herbert), [142] 264; (Mr. W. Lockhart), 429; (Mr. Grogan), 631; Observations (Col. Gilpin), 798; Question (Col. Dunne), 1408; (Sir De L. Evans), 2085; (Lord C. Hamilton), [143] 733; (Mr. Maguire), 740
Edmonton, The, *c.* Question (Mr. Evelyn), [140] 1575
Enfield Rifles, The, *c.* Question (Sir W. Jolliffe), [140] 1954; (Mr. W. Williams), 2053
Gratuity to, *c.* Question (Col. Greville), [142] 1099;—*Rewards to*, Question (Sir H. Willoughby), [143] 336
Mutiny in an Irish Regiment. l. Question (Earl of Donoughmore), [143] 543; (Marquess of Clanricarde), 1347

Militia, The—continued.

c. Question (Col. French), [143] 557; (Col. Dunne), 682
Permanent Staff of the, *l.* Question (Duke of Buccleuch), [143] 625
c. (Lord C. Hamilton), [141] 1532
Ross-shire Rifles, *c.* Observations (Earl of Dalkeith), [143] 1489
Vote of Thanks to, *l.* (Lord Panmure), [142] 182
c. (Visct. Palmerston), [142] 216;—see *Army Estimates*

Militia Ballots Suspension Bill,

c. 1R.* [143] 12; 2R.* 113; 3R.* 320
l. 1R.* [143] 393; 2R.* 490; 3R.* 619
 Royal Assent, [143] 710

Militia Pay Bill,

c. 1R.* [143] 398; 2R.* 525; Com. 860;
cl. 3, [A. 62, N. 44, M. 18] 862; 3R.* 1027
l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
 Royal Assent, [143] 1491

MILNES, Mr. R. M., Pontefract

Army, Sale of Commissions in the, Com. moved for, [140] 1837
 Education, National, Com. [141] 827, 852
 Greece, State of, [142] 856
 Imperial Hotel Company, 2R. [140] 1701
 Italy, Affairs of, Address moved, [143] 784
 London and Durham, Bishops of, Retirement, 2R. [143] 1284
 Members' Speeches, [143] 1232
 National Gallery, Site of the, Address moved, [142] 2107
 Peace, Treaty of, Address moved, [141] 2066
 Reformatories, Juvenile, [140] 99
 Reformatory Schools, Com. *add. cl.* [142] 569, 570
 Supply—British Museum, [141] 1346, 1357, 1367
 Transportation, Com. [141] 869

Mines, Rating of, Bill,

c. Leave, [141] 1467; 1R.* *ib.*

Ministers' Money (Ireland),

c. Com. moved for, (Mr. Fagan), [140] 999; Motion withdrawn, 1009

Ministers' Money (Ireland) Bill,

c. 1R.* [140] 1009;
 2R. Amend. (Mr. G. A. Hamilton), [141] 1114, [o. q. A. 121, N. 201, M. 80] 1140

Mint—Supply,

c. [141] 252

MINTO, Earl of

Appellate Jurisdiction, Rep. [142] 951
 Marriage Law Amendment (No. 2), 1R. [141] 1590
 Marriage Law, English and Scotch, [141] 1383

Miscellaneous Allowances—Supply,

c. [141] 1042

Miscellaneous Estimates,

c. [141] 523, 589, 1001, 1241, 1344; [142] 856, 1108, 1328, 1411

MITCHELL, Mr. T. A., *Bridport*

Contractors' Disqualification Removal, Leave, [140] 677; 3R. 1430

Partnership Amendment, 2R. [140] 486

Partnership Amendment (No. 2), Com. [143] 346; cl. 3, 366

Russia, Trade with—The Armistice, [141] 384

Sound Dues, The, [142] 554

MOFFATT, Mr. G., *Ashburton*

Joint-Stock Companies, Com. cl. 29, [142] 641

Partnership Amendment, 2R. [140] 476, 477

MONCK, Rt. Hon. Visct. (Lord of the Admiralty), *Portsmouth*

Civil Service Superannuation, Com. [143] 1048

Constabulary (Ireland), Paymasters of the, [143] 335

Supply — Superannuation Allowances, [141] 1088

MONCREIFF, Rt. Hon. J., *see* ADVOCATE, The Lord**Monetary System,**

c. Com. moved for (Mr. Muntz), [140] 1481, [A. 68, N. 115, M. 47] 1544;

Explanation (Chancellor of the Exchequer), 1712

Moneys, Public,

c. Com. moved for (Sir F. Baring), [141] 1450

MONSELL, Rt. Hon. W. (Clerk of the Ordnance), *Limerick Co.*

Aldershot Camp Bill, [141] 386

Army Estimates, [140] 1255, 1265, 1269, 1281, 1285, 1286, 1748, 1750, 1754, 1757, 1765, 1766, 1767, 2054, 2055, 2056, 2057, 2059, 2060, 2061, 2062, 2063, 2065, 2069, 2070, 2074, 2076, 2077, 2078, 2083, 2093;

[141] 190, 193, 208, 209;

[142] 1691, 1692, 1693, 1698, 1699, 1701, 1703, 1704, 1705, 1706, 1709, 1717, 1719

Barrack Accommodation, [140] 2193

Crimean Commission Report, [140] 1642

Estimates, Appropriation of the, [141] 183

German Legion, The, [140] 1049, 1050

Harness, Colonel, Case of, [141] 277; Papers moved for, 660

Mortars, Defective, [141] 46, 479, 1333

Plumstead, Church Accommodation at, [142] 1106

Sunday Labour in the Dockyards, [141] 872

Supply, Rep. [140] 1314;—Disembodied Militia, [143] 286

MONTEAGLE, Lord

Annuities Redemption, 3R. [143] 12

Cambridge University, Com. cl. 44, [143] 314, 315

Consolidated Fund Appropriation, Com. [143] 1180

Drafts on Bankers, 2R. [142] 1055

Education, Vice President of Committee of Council on, 2R. [140] 816

• MONTEAGLE, Lord—continued.

Exchequer Bills Funding, 2R. [140] 1942, 1950

Fire Insurances, 2R. [142] 672

Hampstead Heath—Leases and Sales of Settled Estates, [142] 1571

India, Torture in, Returns moved for, [140] 1569

Indian Finance, Papers moved for, [141] 637

Joint-Stock Companies, 2R. [142] 1482; Com. 1891

Judges, Scotch, Privileges of, [141] 763

Limited Liability, Returns moved for, [141] 134

Madras, Torture in, Res. [141] 995

Parliament, Houses of—The Fire Brigade, [141] 1691

Sleeping Statutes, 2R. [142] 1896

Ticket-of-Leave System, Returns moved for, [140] 1405

MONTGOMERY, Sir G. G., *Peeblesshire*

Parochial Schools (Scotland), Com. cl. 9, Amend. [142] 1991

Voters, Registration of (Scotland), Com. [142] 1682

MONTGOMERY, Mr. H. L., *Leitrim*

Postal Communication (Ireland), [142] 16

MOODY, Mr. C. A., *Somersetshire, W.*

Reformatory Schools, [141] 335

MOORE, Mr. G. H., *Mayo Co.*

Dwellings for Labouring Classes (Ireland), Com. add. cl. [142] 1662

Established Church (Ireland), [142] 713

Evictions (Ireland)—Case of Mr. Pollok, Com. moved for, [141] 1715 & [142] 705

Kara, Fall of, Res. [141] 1638

"Nerbudda," Loss of the, [140] 1218

Rolls, Master of the, and the Attorney General for Ireland, [143] 669

Sadleir, James, and the Tipperary Bank, [143] 399

Tenant Right (Ireland), Leave, [140] 1099; [141] 1344; 2R. [142] 922, 1023, 1024;

Com. [143] 530

United States, Relations with the, [142] 1660, 1740, 2071, 2093; [143] 14; Motion, 16,

41, 43, 51, 202, 203

MOORE, Mr. J. B., *Maldon*

Brazilian Slave Trade, [143] 1032

*Wine Duties, Com. moved for, [143] 928

Morning Sitzings,

c. Observations (Mr. Walpole), [142] 1462

MORRIS, Mr. D., *Carmarthen*

County Court Judges, Salaries of, Address moved, [141] 295

Mortars, Defective,

l. Question (Earl of Derby), [140] 2202

c. Observations (Mr. Monsell), [140] 2064; (Col. Boldero), 2194; Question. (Col. Boldero), [141] 45; (Mr. Malins), 479; Statement (Mr. Malins), 1326

Moulton, Endowed Schools at, Bill

l. 1R.* [142] 949; 2R.* 1219; 3R.* 1771
c. 1R.* [142] 1987; 2R.* [143] 252; 3R.* 549
 Royal Assent [143] 710

Mowbray, Mr. R. J., Durham City

Charities, 2R. Amend. [143] 965, 967; Com. *cl.* 1, Amend. 1060, 1061
 Ecclesiastical Commission, Com. moved for, [140] 977
 Education, Vice President of Committee of Council on, Com. *cl.* 1, [143] 1058
 Judges and Chancellors, Com. Amend. [142] 2045
 London and Durham, Bishops of, Retirement, Com. [143] 1361, 1364; *cl.* 1, 1369; *cl.* 3, 1412
 Public Works, Com. *cl.* 3, [141] 626
 Session, Review of the, Returns moved for, [143] 1475
 Supply—Education, Public, [141] 524;—Education, (Ireland), 528, 541, 542;—Theological Professors (Belfast), 598;—Royal Society, 621;—West Indies (Governors, &c.), 1005;—Superannuation Allowances, 1037, 1038;—Toulonese, &c., Emigrants, 1040;—General Board of Health, 1368;—Charity Commission, [142] 856, 860;—Civil Contingencies, 1339

Mullings, Mr. J. R., Cirencester

County Courts Acts Amendment, Com. *cl.* 72, (E) [143] 707; 3R. *add. cl.* 1204
 Mercantile Law Amendment, Com. *cl.* 6, Amend. [143] 1001
 Supply—Revising Barristers, [142] 1030

Municipal Reform (Scotland) Bill,

c. Leave, [140] 612; 1R.* 681;
 2R. [141] 19; Bill withdrawn, 21

Munitions of War, Export of,

c. Question (Mr. Thornely), [141] 703

Muntz, Mr. G. F., Birmingham

Aggravated Assaults, 2R. [142] 175
 Army Estimates, [140] 1263, 2059, 2061, 2071, 2077, 2000; [142] 1705
 Baltic, Operations in the, Com. moved for, [141] 108
 Bleaching, &c., Works (No. 2), 2R. [143] 222
 British Museum—Sunday Opening, [140] 1115
 Ecclesiastical Courts Jurisdiction, Leave, [140] 403
 Factories, 2R. * [141] 375; Com. [142] 553; *add. cl.* 565
 Income and Property Tax, [141] 640, 657
 Justices of the Peace Qualification, 2R. [140] 1444
 Married Women, Rights of, [142] 1279
 Monetary System, Com. moved for, [140] 1481, 1492, 1543
 Partnership Amendment, 2R. [140] 260, 475
 Partnership Amendment (No. 2), Com. Amend. [143] 338; *cl.* 3, 369; 3R. *cl.* 3, 803
 Police (Counties and Boroughs), 2R. [140] 695, 2183; Com. *cl.* 10, [141] 1940; *cl.* 6, [142] 306
 Postage Labels, Com. moved for, [142] 1294
 Supply—Embassy Houses Abroad, [142] 1043

Murrough, Mr. J. P., Bridport

Bleaching, &c., Works (No. 2), 2R. [143] 212
 British Museum—Sunday Opening, [140] 1071
 County Courts Acts Amendment, Com. *cl.* 20, [143] 696; Rep. *cl.* 30, 996; 3R. *add. cl.* 1202
 Fire Insurances, 2R. [141] 1944
 German Legion, The, [142] 428; [143] 1108, 1109, 1110, 1111
 India, Revenues of, [141] 1207, 1232
 Metropolis Local Management Act Amendment (No. 2), Lords Amends. [143] 1418
 Metropolitan Management, [140] 2040
 Secretaries of State, Return moved for, [141] 1105, 1247, 1248;—Com. moved for, [142] 620, 621;—Patents for the, [143] 1426
 Shaving on Sunday, [140] 2036
 Spain, Affairs of, [143] 384
 Tanjore and Jodpore, Rajahs of, [141] 151, 152

Museum, &c., Opening of, on Sunday,

c. Question (Hon. A. Kinnaid), [140] 219;—see *British Museum*

Mutiny Bill,

c. 1R.* [140] 1478;
 2R. 1672; 3R.* 2036
l. 1R.* [140] 2095;
 2R. 2224; 3R.* [141] 28
 Royal Assent, [141] 120

Naas, Rt. Hon. Lord, Coleraine

Australian Mails, [142] 1496
 Bleaching Works (No. 2), 2R. [142] 1053; [143] 222
 Chancery, Court of (Ireland) (Receivers), Com. *cl.* 1, [143] 506
 Commissions of Deceased Officers, Address moved, [142] 1523
 Constabulary (Ireland), Paymasters of the, [143] 335
 Dublin Metropolitan Police, 2R. [143] 117
 Dwellings for Labouring Classes (Ireland), Com. *cl.* 1, [141] 1793; *cl.* 2, 1794
 Education (Ireland), [142] 1686
 Incumbered Estates (Ireland), 2R. [143] 380; 3R. *add. cl.* 616
 Juries (Ireland), 2R. [141] 1469
 Justices of Peace Qualification Com. *cl.* 7, [141] 1112
 Lunatic Asylums (Ireland) (No. 2), Com. *cl.* 3, [142] 1760; *cl.* 4, 1764
 Militia Pay, Com. [143] 861
 Ministers' Money (Ireland), Com. moved for, [140] 1004
 Pauper Removal (Scotch and Irish), 2R. [142] 2157
 Prisons (Ireland), Com. *cl.* 3, [143] 115
 Supply—Superannuation Allowances, [141] 1033, 1036;—Incumbered Estates Commission (Ireland), [142] 1049;—Agricultural Statistics, 1111

Napier, Rt. Hon. J., Dublin University

Abjuration, Oath of, 2R. [141] 736; Com. *cl.* 2, [142] 601, 605
 Bleaching, &c., Works (No. 2), 2R. [143] 223
 *British Museum—Sunday Opening, [140] 1082
 Chancery, Court of Appeal (Ireland), Com. *cl.* 3, [143] 508

[cont.]

NAPIER, Rt. Hon. J.—*continued.*

Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 591, 968
 Chancery, Court of (Ireland) (Receivers), Com. cl. 1, [143] 505
 Consolidated Fund Appropriation, Com. [143] 561
 Contractors' Disqualification Removal, 2R. [140] 1436
 Crimea, Return of Troops from the, [142] 1098
 Dwellings for Labouring Classes (Ireland), Com. [141] 1791; cl. 2, 1794, 1796; add. cl. [142] 1663
 Education, Legal, [141] 2030
 Education (Ireland), Address moved, [142] 1635; Res. 1868, 1885
 Education, Vice President of Committee of Council on, 3R. [143] 1214
 Established Church (Ireland), [142] 714; Com. moved for, 762
 Estates, Leases and Sales of Settled, Com. add. cl. [143] 1054, 1055
 Evictions (Ireland)—Case of Mr. Pollok, [142] 705
 Grand Jury Assessment (Ireland), Com. cl. 8, [142] 618
 Hinds, Miss, Murder of, [142] 284
 Hospitals (Dublin), Com. [143] 971
 Incumbered Estates Court, Returns moved for, [141] 546; 2R. [143] 378; Com. add. cl. 489; 3R. add. cl. 616
 Judgments Execution, Leave, [140] 182; Com. [143] 207, 208, 537, 1002
 Judicial Bench (Ireland), Returns moved for, [140] 769, 773
 Juries (Ireland), 2R. [140] 971
 Justice, Public Department of, [143] 119
 Justices of Peace Qualification, Com. cl. 7, [141] 1110
 Laws, Amendment of the, Res. [140] 614, 666, 668
 London and Durham, Bishops of, Retirement, 2R. [143] 1287; Com. cl. 1, 1371, 1382
 Maynooth College, 2R. [142] 1918
 Medical Profession, 2R. [140] 1015; Com. [141] 761
 Ministers' Money (Ireland), Com. moved for, [140] 1002
 Ministers' Money (Ireland), 2R. [141] 1123, 1125
 Navy Estimates, [140] 562, 563
 Nawab of Surat Treaty, Rep. [142] 1657
 Peace Preservation (Ireland), Com. [142] 1575; cl. 2, 1577; cl. 4, 1579
 Poor Law (Ireland), 2R. [142] 1664; [143] 1275
 Rolls, Master of the, and the Attorney General for Ireland, [143] 404, 652, 660, 673, 708, 709, 737, 738, 739, 897
 Sadleir, James, Expulsion of, [143] 1391, 1407
 Session, Review of the, Returns moved for, [143] 1474
 Statute Law, Consolidation of the, Leave, [140] 756
 Sunday Labour in the Dockyards, [141] 873
 Supply—Superannuation Allowances, [141] 1035
 Talbot v. Talbot, Case of, Papers moved for, [140] 1563

NAPIER, Vice Adm. Sir C., *Southcark*
 Army Estimates, [140] 1738, 2092; [142] 1550, 1704, 1711
 Baltic, Operations in the, Com. moved for, [141] 48, 77, 79, 82, 83, 84, 86, 92, 94, 97, 98, 99, 115, 116
 Masters in the Navy, [141] 1927
 Napier, Sir C., at Acre, [141] 492
 Naval Administration, Com. moved for, [140] 442, 445, 982
 Naval Officers, [143] 522
 Navy Estimates, [140] 587, 588, 590; [142] 1437
 Supply—Coast-Guard, [140] 862, 863

Napier, Sir C., at Acre,
 c. Observations (Sir J. Graham), [141] 460

National Collections of Art and Science,
 c. Question, (Mr. W. Ewart), [141] 151

National Debt Office—Supply.
 c. [141] 262

National Gallery, The,
 c. Question (Mr. Otway), [141] 150; (Mr. Wells), 1528;—*Supply*, 601; Amend. (Mr. Otway), 609, [A. 72, N. 152, M. 80] 629

National Gallery Bill,
 c. 1R.* [141] 1324; 2R.* 1528; Com. cl. 1, 1946; 3R.* [142] 258
 l. 1R.* [142] 310; 2R.* 776; 3R.* 949
 Royal Assent, [142] 1771

National Gallery Site Bill,
 c. 1R.* [142] 977;
 2R. 1393; Amend. (Lord Elcho), 1394; Amend. and Motion withdrawn, *ib.*;
 Bill withdrawn, [143] 13

National Gallery, Site of the,
 c. Address moved (Lord Elcho), [142] 2057, [A. 153, N. 145, M. 8] 2153;—Her Majesty's Reply, [143] 510
 Question (Mr. G. Vernon), 556

Naval Administration,
 c. Com. moved for (Capt. Scobell), [140] 406, [A. 80, N. 171, M. 91] 447
 Question (Sir C. Napier), 983

Naval Officers,
 c. Motion (Capt. Scobell), [143] 510, [A. 31, N. 38, M. 7] 524

Navy,
Coast-Guard, c. Question (Mr. Stirling), [142] 258; (Mr. Palk), 632
Estimates, c. [140] 524; [142] 1417
Manning and Equipment of the, c. Question (Sir G. Tyler), [142] 1086
Masters in the, c. Observations (Mr. Lavard), [141] 1533, 1927
Spithead, Naval Review at, l. Observations (Lord Ravensworth), [141] 1334; Ear. Granville), 1473
 c. Question (Col. French), [141] 1182; Observations (Mr. Stafford), 1395; (Mr. Lindsay), 1541

[cont.]

Navy—continued.

Steam Navy, l. Observation (Earl of Hardwicke), [141] 627

Sunday Labour in Dockyards, c. Question (Capt. Stuart), [141] 872

Union-House Boys, c. Questions (Col. Harcourt), [140] 2044; [141] 884

Vote of Thanks to, l. (Lord Panmure), [142] 182

c. (Viscount Palmerston), [142] 216

Nawab of Surat Treaty Bill,

c. 1R.* [141] 277; 2R.* 639;

Rep. [142] 1297; Motion (Mr. V. Smith), 1298; Amend. (Sir F. Kelly), 1301; Amend. withdrawn, 1316; 2nd Amend. 1649;

3R. [142] 1898; Amend. (Sir J. Hogg), 1901, [o. q. A. 213, N. 28, M. 185] 1905

l. 1R.* [142] 1890;

2R. [143] 883; Amend. (Lord Redesdale), 884;—see *India, Surat, Nawab of*

“Nerbudda,” Loss of the,

c. Question (Mr. G. H. Moore), [140] 1218

NEWCASTLE, Duke of

London and Durham, Bishops of, Retirement, 2R. [143] 836

St. James's Park, [141] 769

NEWDEGATE, Mr. C. N., Warwickshire, N.

Abjuration, Oath of, Leave, [140] 1288; 2R. [141] 755; Com. cl. 2, [142] 601

Army Chaplains, [141] 881

Army Estimates, [140] 1260, 2058, 2061, 2064; [141] 205; [142] 1694

Barrack Accommodation, [140] 2193

Bleaching, &c., Works (No. 2), 2R. [143] 214

Business, Public, [141] 177

Charities, Com. cl. 1, [143] 1061

Church Rates Abolition (No. 2), [140] 1928

Contractors' Disqualification Removal, 2R. [140] 1438

County Courts, Judges' Salaries, Com. [142] 2044

Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1057, 1058; 3R. 1217

Education (Ireland), Res. [142] 1883

Enfield Factory Expenses, [141] 177

Established Church (Ireland), Com. moved for, [142] 740

German Legion, The, [143] 1112

Joint-Stock Companies, 3R. cl. 46, [142] 898

Judges and Chancellors, Com. [142] 2045

Justices of the Peace Qualification, Com. cl. 11, [142] 478

London and Durham, Bishops of, Retirement, Com. [143] 1358

Maynooth College, Com. [141] 1008; Leave, 1103; 2R. [142] 1947, 2047

Militia Allowances, [143] 679

Monetary System, Com. moved for, [140] 1511, 1518

Naval Review, The, [141] 1308, 1555

Parochial Schools (Scotland), 3R. [143] 373; Lords' Amends. 1174

Police (Counties and Boroughs), Com. cl. 2, [141] 1584

Reformatory Schools, Com. add. cl. [142] 570

Sadler, James, Expulsion of, [143] 1407

Transportation, Com. moved for, [141] 422

VOL. CXLIII. [THIRD SERIES.]

Newfoundland—Import Duties,

c. Question (Mr. W. Ewart), [141] 44

NEWPORT, Viscount, Shropshire, S.

Reformatory Schools, [142] 1161

New Zealand. Salary of the Bishop of

c. Question (Sir J. Pakington), [143] 321

NISBET, Mr. R. P., Chippenham

Parochial Schools (Scotland), Com. cl. 9, [142] 1091

NOEL, Hon. G. J., Rutland

Guards, Entry of the, into London, [142] 2073

Horses of Officers in the Crimea, [142] 327

NORREYS, Sir D. J., Mallow

Constabulary (Ireland), Paymasters of the, [143] 334

Dwellings for Labouring Classes (Ireland), Com. [141] 1790

Estates, Leases and Sales of Settled, Com. add. cl. [143] 1054

Grand Juries (Ireland), Leave, [141] 1444

Grand Juries (Ireland) (No. 2), 2R. [143] 1274

Hospitals (Dublin), Com. cl. 9, [143] 972

Lunatic Asylums (Ireland) (No. 2), Com. cl. 8, [142] 1760

Supply—Embassy Houses Abroad, [142] 1042

NORTH, Col. J. S., Oxfordshire

Army Estimates [140] 1286, 1287, 1739, 2057, 2069; [141] 186, 188, 194, 196, 202, 205; [142] 1557

Army, Sale of Commissions in the, Com. moved for, [140] 1835

Army, Staff of the, [142] 2084, 2086

Bands in the Parks on Sundays, [141] 1702, 1706, 1922

Civil Service Superannuation Fund, Com. [143] 1045

Commissions of Deceased Officers, Address moved, [142] 1520, 1526

Crimean Commission Report, [140] 981, 1050, 1625; [143] 1499, 1500

French Decorations, [143] 1496

Indian Army, [143] 1425

London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1382

Militia, The, and the Foreign Legions, [142] 805; [143] 1035

Naval Review, The, [141] 1397, 1545

Sandhurst Military College at, [142] 588

Supply—Monument at Soutari, [142] 1050;—Disembodied Militia, [143] 277, 280, 281, 287

Williams, Sir W. F., Queen's Message, Address moved, [142] 201

North American Colonies, Military Establishments in the.

l. Address moved (Earl of Elgin), [142] 673

North American Provinces—Supply,

c. [141] 1001

NORTHCOTE, Sir S. H., *Dudley*

Aggravated Assaults, 2R. [142] 176
 Army Regulations, [142] 1407
 Church Rates Abolition (No. 2), 2R. [140] 1892
 Civil Service, Admissions to the, Address moved, [141] 1408; [143] 528
 Civil Service Superannuation, Leave, [140] 891, 892, 915; Com. [143] 1043
 County Courts Acts Amendment, Rep. cl. 30, Amend. [143] 995
 Custom-House Officers, Salaries to, [140] 2112
 Education, National, [140] 2004; Com. [141] 930, 935
 Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1058
 Reformatories, Juvenile, [140] 98
 Reformatory Schools, Com. add. cl. [142] 566, 567, 568, 569
 Reformatory Schools, (Scotland), 2R. [141] 17
 Reformatory and Industrial Schools, Lords' Amends. [143] 1003
 Supply — Emigration, [141] 1012; — Education, [142] 1368
 Transportation, Com. moved for, [141] 424

Nuisances Removal (Scotland) Bill

c. 1R.* [140] 1406

Nuisances Removal, &c. (Scotland) (No. 2) Bill,

a. 1R.* [142] 588; 2R.* 1085; 3R.* [143] 733
 l. 1R.* [143] 812; 2R.* 946; 3R.* 1176
 Royal Assent [143] 1491

Oaths Unlawful (Ireland) Bill,

a. 1R.* [143] 398; 2R.* 525;
 3R. 708
 l. 1R.* [143] 710; 2R.* 1006; 3R.* 1176
 Royal Assent, [143] 1491

O'BRIEN, Mr. Serj. J., *Limerick City*

Chancery Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 957
 Constabulary (Ireland), Paymasters of the, [143] 333
 Dublin Metropolitan Police, 2R. [142] 1215
 Incumbered Estates (Ireland), 2R. [143] 378
 Maynooth College, 2R. [142] 2047
 Ministers' Money (Ireland), [141] 1136

O'BRIEN, Mr. P., *King's Co.*

Chancery, Court of (Ireland), (Incumbered Estate Court) Abolition, 2R. [140] 959
 Dublin Metropolitan Police, 2R. [142] 1217, 1218
 Dwellings for Labouring Classes (Ireland), 2R. [140] 1859
 Education (Ireland), Res. [142] 1877
 Judgments Execution, Com. [143] 1002
 Lunatic Asylums (Ireland) (No. 2), Com. cl. 4, [142] 1764
 Navy Estimates, [142] 1458
 Peace Preservation (Ireland), 2R. [142] 1393
 Poor Law Amendment (No. 2), 2R. [142] 2043
 Supply—Battersea Park, [142] 1035, 1036
 Wine Duties, Com. moved for, [143] 928

Observance of Holidays Repeal Bill,

l. 1R.* [140] 2202

O'CONNELL, Capt. D., *Tralee*

Italian Legion, The, [142] 1401
 Maynooth College, Leave, Amend. [141] 1103
 Tralee and Killarney Savings Banks, Com. moved for, [142] 772

O'CONNELL, Capt. J., *Clonmel*

Dwellings for Labouring Classes (Ireland), Com. [141] 1791; add. cl. [142] 1664
 Militia, The, and the Foreign Legions, [142] 806

Offences against the Person Bill,

l. 1R. [143] 1089—see *Statute Law, Consolidation of the*

Offences of a Public Nature Bill,

l. 1R. [143] 1089

Offences, Trial of, Bill,

l. 1R. [140] 218;
 2R. 512; 3R.* 1121
 c. 1R.* [140] 1311;
 2R. 1768;
 Com cl. 1, 2194; 3R.* [141] 703
 l. Royal Assent, [141] 870

Offenders, Juvenile (Ireland), Bill,

c. 1R.* [140] 150;
 2R. 495

Officers of the House,

c. Question (Mr. Banks), [140] 836

O'FLAHERTY, Mr. A., *Galway*

Grand Juries (Ireland), Leave, [141] 1444

OLIVEIRA, Mr. B., *Pontefract*

Bank of England, [140] 1406
 Kars, Defenders of, [142] 326
 Lake and Teesdale, Colonels, [143] 118
 Public Offices, [142] 1098
 Spain, Postal Treaty with, [140] 2111
 Turkish Loan, The, [141] 220
 * Wine Duties, Com. moved for, [143] 903, 933

Orange River Territory—Supply,

c. [142] 1052

OSBORNE, Mr. R. B. (Secretary of the Admiralty). *Middlesex*

Baltic, Operations in the, Com. moved for, [141] 118
 Naval Administration, Com. moved for, [140] 444, 445
 Navy, Masters in the, [141] 1534

OTWAY, Mr. A. J., *Stafford*

Army Estimates, [140] 1736, 1766; [141] 207; [142] 1703, 1716
 Bands in the Parks on Sundays, [141] 1915; [142] 325, 326
 Crimean Medal—The Sardinian Army, [142] 261
 Danubian Principalities, [143] 1040

[cont.]

OTWAY, Mr. A. J.—*continued.*

- East India Company — French Inundations, [143] 264
 Foreign Troops in the English Service, [141] 565
 Imperial Hotel Company, 2R. [140] 1701
 India, Revenues of, [141] 1218
 Indian Budget, The, Com. Res. [143] 1163, 1170
 Indian Law Expenses—*In Re Dyce Sombre*, [140] 1410, 1953
 National Gallery, The, [141] 150
 Nawab of Surat Treaty, Rep. [142] 1315
 Offences, Trial of, 2R. [140] 1769
 Oude, Kingdom of, [140] 1224;—Annexation of, Returns moved for, 1856
 Railway Accidents, [142] 2091
 Sombre, Mr. Dyce, Will of, [141] 172
 Supply—National Gallery, Amend. [141] 601, 619;—Embassies, &c., 1031

Oude, Kingdom of—The Treaty,

- l. Question (Marquess of Clanricarde), [141] 775
 c. Question (Mr. Otway), [140] 1224;—*Annexation of*, Returns moved for (Sir E. Perry), 1856

Outlawries Bill,

- c. 1R.* [140] 50

Out-Pensioners (Greenwich and Chelsea, Bill,

- c. 1R.* [140] 1574; 2R.* 1699; 3R.* 2036
 l. 1R.* 2095; 2R.* [141] 277;
 3R. 547
 Royal Assent, [141] 870

OVERSTONE, Lord

- Agricultural Statistics, Com. [141] 459, 461
 Joint-Stock Companies, 2R. [142] 1474, 1476, 1488, 1489, 1490; Com. 1891; *cl.* 18, 1892
 Limited Liability, Returns moved for, [141] 139, 144, 149
 Mercantile Law Amendment, Rep. [141] 1908

OXFORD, Bishop of

- Burial-Ground, Blandford, [142] 968, 1219, 1225;—Great Torrington, 2070
 Capital Punishment, Com. moved for, [142] 247, 253
 Church Discipline, 2R. [141] 1318, 1323
 Divorce and Matrimonial Causes, Com. [142] 1979, 1984; Rep. 1987; Amend. [143] 230, 250, 251
 Education, [141] 1143
 London and Durham, Bishops of, Retirement, 2R. [143] 838; Com. 949, 953; *cl.* 1, 962, 964; 3R. 1098, 1102
 Marriage Law Amendment, 2R. Amend. [141] 1500, 1505
 Parishes, Formation of, 2R. [143] 947; Com. *cl.* 9, 1092
 Reformatory and Industrial Schools, Rep. Amend. [142] 1676; 3R. *add. cl.* [143] 229

Oxford College Estates Bill,

- c. 1R.* [142] 2071; 2R.* [143] 12; 3R.* 206
 l. 1R.* [143] 229; 2R.* 619; 3R.* 1007
 Royal Assent, [143] 1491

Oxford University,

- c. Address moved (Mr. Heywood), [140] 2015; Amend. (Sir J. Pakington), 2022; Amend. and Motion withdrawn, 2038

Oxford University Bill,

- l. 1R.* [141] 963;
 Observations (Earl of Derby), 1047;
 2R.* [142] 481; 3R.* 899
 c. 1R.* [142] 977; 2R.* 1161; 3R.* 1401
 l. Commons' Amends. [142] 1572
 Royal Assent, [142] 1771

Oxford University Statutes,

- c. Question (Sir J. Pakington), [141] 467

PACKE, Mr. C. W., *Leicestershire, S.*

- Aggravated Assaults, 2R. [142] 172
 Church Rates Abolition (No. 1), Leave, [140] 253
 Church Rates (No. 2), 2R. [142] 467, 476
 Naval Review, The, [141] 1563
 Police (Counties and Boroughs), 2R. [140] 694, 2156; Com. *cl.* 1, [141] 1582; *cl.* 7, 1932, 1935; *add. cl.* [142] 607, 610, 612
 Talbot v. Talbot, Case of, Papers moved for, [140] 1559

PAKINGTON, Rt. Hon. Sir J. S., *Droitwich*

- Ascension Day. Observance of, [141] 1706
 Australia, Steam Postal Communication with, [141] 278, 1181; [142] 1987, 1990
 Church Rates, [140] 2110
 Church Rates, (No. 1), [141] 1706
 Church Rates (No. 2), 2R. [142] 475
 County Court Judges, Salaries of, Address moved, [141] 302
 County Courts Acts Amendment, Com. *cl.* 72, (D), Amend. [143] 696
 Crimean Commission Report, [140] 835, 1051, 1478, 1588
 Discussions, Irregular, [141] 888
 Education Estimates, [142] 1107
 Education, National, [140] 101, 1221, 1995, 1998; Com. [141] 852, 926
 Evictions (Ireland)—Case of Mr. Pollok, [142] 703
 Horses of Officers in the Crimea, [142] 427
 Justices of the Peace Qualification, Com. *cl.* 11, [142] 478
 Kars, Fall of, Res. [141] 1742
 Maynooth College, 2R. [142] 1951
 Medical Profession, Com. [141] 346, 350, 760
 Mortars, Defective, [141] 1341
 New Zealand, Salary of the Bishop of, [143] 321
 Offences, Trial of, 2R. [140] 1769
 Oxford University, Address moved, Amend. [140] 2018, 2025
 Oxford University Statutes, [141] 467
 Plumstead, Church Accommodation at, [142] 1106
 Police (Counties and Boroughs), Leave, [140] 237, 245;
 141] Com. *cl.* 1, 1580, 1583; *cl.* 2, 1584; *cl.* 3, 1928, 1929; *cl.* 5, 1930; *cl.* 7, 1933, 1935; *cl.* 10, 1937;
 142] *cl.* 6, 294, 298; *add. cl.* 609
 Reformatories, Juvenile, [140] 92, 95
 Reformatory Schools, Com. *add. cl.* [142] 571 574
 St. Pancras Workhouse, [140] 2111; [142] 1228, 1230
 3 L 2

[cont.]

PAKINGTON, Rt. Hon. Sir J. S.—*cont.*

Salt Tax (India), [141] 153; [143] 643
 Sebastopol Clasp, [141] 1182, 1325
 Suffragan Bishops, [142] 591
 Supply—Royal Parks, Pleasure Grounds, &c., [141] 233;—North American Provinces, 1002;—West Indies (Governors, &c.), 1004, 1008;—Emigration, 1012;—Superannuation Allowances, 1038;—British Historical Portrait Gallery, [142] 1118;—Science and Art Department, Marlborough House Removal, 1129;—Education, 1350, 1354, 1367;—St. James's Park, 1415
 Tithe Commutation Rent Charge, 2R. [142] 157
 Transportation, Com. moved for, [141] 411, 417
 United States, Relations with the, [142] 1738; [143] 183
 West India Loans, 3R. [142] 1388
 Williams, Sir W. F., Queen's Message, Address moved, [142] 288
 Wills and Administrations, Leave, [141] 219

Palaces, Royal, and Public Buildings—Supply,
c. [141] 221

PALK, Mr. L., *Devonshire, S.*

Burial-Grounds, [143] 862
 Coast-Guard, The, [142] 632
 Crimean Board of Inquiry, [141] 882, 1799
 Crimean Commission Report, [140] 834; [141] 479, 882
 Fire Insurances—French Offices, [140] 835
 Health, Public, Com. [143] 497
 Militia Pay, Com. [143] 861
 Police (Counties and Boroughs), Leave, [140] 244
 Reformatory Schools, Com. *add. cl.* [142] 567
 Supply—Agricultural Statistics, [142] 1109;—St. James's Park, 1415

PALMER, Mr. Robert, *Berkshire*

Civil Service Superannuation Fund, Com. [143] 1045
 Justices of Peace Qualification, Com. *cl.* 7, [141] 1107; *cl.* 11, [142] 478
 Police (Counties and Boroughs), 2R. [140] 693; Com. *add. cl.* [142] 309

PALMER, Mr. Roundell, *Plymouth*

Appellate Jurisdiction, 2R. [143] 455
 • British Museum—Sunday Opening, [140] 1104
 Cambridge University, Com. *cl.* 32, [142] 1212; Rep. *cl.* 44, 1751
 Laws, Amendment of the, Res. [140] 664
 Reformatory Schools, Com. *add. cl.* [142] 570

PALMERSTON, Rt. Hon. Viscount (First Lord of the Treasury), *Tiverton*

Abjuration, Oath of, [140] 1220; 2R. [141] 752, 1909; Com. *cl.* 2, [142] 604
 Address in Answer to the Speech, [140] 72, 87
 Agricultural Statistics, 2R. [142] 1727, 1728, 1770, 1771
 Aldershot Review at, [143] 863, 864
 Alien Act—Colonel Turr, [140] 91, 92
 Appellate Jurisdiction, [142] 2077, 2080; Com. [143] 607

PALMERSTON, Rt. Hon. Visct.—*cont.*

Armistice, The—Cargoes to Russian Ports, [140] 718; [141] 385, 779
 Army Chaplains, [141] 880
 Army, Disbanding of the, [141] 2036
 Army—Education of Officers, [142] 1020
 Army Estimates, [140] 1221, 1259, 1261, 1287, 1740, 2085, 2089, 2091, 2093; [141] 185; [142] 1549, 1724
 Army—Prize Money, [143] 271
 Army, Sale of Commissions in the, Com. moved for, [140] 1846
 Army Scientific Corps, [141] 1450
 Ascension Day, Observance of, [141] 1706
 Audit of Public Accounts, [141] 709
 Bands in the Parks on Sundays, [141] 1706, 1923; [142] 826
 Beatson, General, [143] 1258, 1497, 1498, 1449
 Belgium, Mission to, [143] 1386
 Billeting (Scotland), [141] 574, 585, 588
 Black Sea, Russian Forts on the, [141] 1909; Ships in the, 1910
 Bleaching Works (No. 2), 2R. [142] 1053
 Brazilian Slave Trade, [143] 1032
 British Museum—Sunday Opening, [140] 1113, 1115
 Budget, The—Financial Statement, Res. [142] 368
 Business of the House, Amend. [140] 249; [141] 2036; [142] 1686
 Business, Public, [140] 2044, 2045; [141] 175, 874; [143] 976; Returns moved for, 1461
 Cambridge University, Com. *cl.* 4, [142] 844; *cl.* 6, 846; *cl.* 25, 847, 849; *cl.* 27, 1205; Rep. *add. cl.* 1741; *cl.* 27, 1746; *cl.* 44, 1753
 Canada, Despatch of Troops to, [141] 1538
 Cape of Good Hope, State of the, [143] 336
 Charities, Com. *cl.* 1, [143] 1061
 Church Property, [140] 1223
 Church Rates Abolition (No. 2), 2R. [140] 1919
 Circassia—Mr. Longworth's Mission, [142] 980
 Commissions of Deceased Officers, Address moved, [142] 1531
 Commons, House of, Offices, 2R. [140] 447
 Consolidated Fund Appropriation, 3R. [143] 940
 Corrupt Practices Prevention, Com. [143] 990
 Crimean Army, Mortality in the, [140] 220
 Crimean Commission Report, [140] 834, 1052, 1411, 1480, 1574, 1658, 1666, 1708; [141] 480; [143] 1428, 1429, 1499
 Crimean Medal—The Sardinian Army, [142] 261
 Crimean Tartars, The, [141] 45
 Customs Duties at Spanish Ports, [141] 1899
 Danube, Navigation of the, [143] 555
 Danubian Principalities, [142] 851, 852
 Diplomatic Service, The, [140] 522
 Discussions, Irregular, [141] 889
 Dissenters' Marriages, 2R. [140] 1929
 Divorce and Matrimonial Causes, 2R. [143] 710
 Dowbiggin, Major, Case of, [140] 2109
 Dublin Metropolitan Police, 2R. [142] 1218
 Dwellings of Labouring Classes (Ireland), 2R. [140] 1857, 1859
 Ecclesiastical Courts Jurisdiction, Leave, [140] 398

[*cont.*]

[*cont.*]

PALMERSTON, Rt. Hon. Visct.—*cont.*

Edmonton Militia, The, [140] 1878
 Education, National, [140] 2009; Com. [141] 866, 867, 959
 Education, Vice President of Committee of Council, Com. *cl.* 1, [143] 1056
 Education (Ireland), [142] 1666, 1685, 1686; Res. 1882, 1883
 Elections, Corrupt Practices at, [140] 383; [142] 553
 Enlistment, Foreign (Prussia), [140] 383
 Episcopal and Capitular Estates, Leave, [140] 182
 Established Church (Ireland), [142] 714; Com. moved for, 765
 "Europa," Loss of the, [143] 1115
 Evictions (Ireland)—Case of Mr. Pollok, Com. moved for, [141] 1714, 1718; [142] 704
 Fireworks (Dublin and Edinburgh), Address moved, [141] 1468
 Foreign Legion, The, [143] 1035, 1036
 German Legion, The, [143] 1111, 1112
 Grand Jury Assessment (Ireland), Com. *add. cl.* [142] 620
 Graves of Soldiers in the Crimea, [140] 2042
 Greece, State of, [141] 384; [142] 854
 Guards, Entry of the, into London, [142] 2074; [143] 265
 Hanover, Diplomatic Establishment at, [142] 1494
 Harness, Colonel, Case of, Papers moved for, [141] 663
 Incumbered Estates (Ireland), 3R. *add. cl.* [143] 616, 617
 Indian Budget, The, Com. [143] 1120
 Italian Legion, The, [140] 1790
 Italy, Affairs of, Address moved, [143] 757
 Italy—Conference at Paris, [141] 47
 Japan, Convention with, [140] 832
 Joint-Stock Companies, Com. *cl.* 5, [142] 636
 Judges and Chancellors, Leave, [142] 458; Com. 2045
 Judicial Bench (Ireland), Returns moved for, [140] 803
 Kars, Fall of, [140] 1051; Res. [141] 1688, 1779, 1785, 1802, 1884, 1898, 1902
 Kars and Ismail, Fortifications of, [142] 1497;—Evacuation of, [143] 13
 Kars, Defenders of, [142] 326
 Lake, Col., and Col. Teesdale, [143] 118
 Laws, Amendment of the, Res. [140] 660
 Ley, Mr. W., Vote of Thanks to, [140] 224
 London and Durham, Bishops of, Retirement, [143] 13, 1171, 1172; 2R. 1266, 1271, 1273, 1343, 1344, 1346; Com. 1364; *cl.* 1, 1370; *cl.* 3, 1409, 1410; *cl.* 5, 1414, 1415; 3R. 1429
 Maynooth College, Com. [141] 1096; Leave, 1103, 1104
 Medical Profession, Leave, [140] 503
 Members' Speeches, [143] 1228
 Metropolitan Management, [140] 2040
 Militia and the Foreign Legions, [142] 805
 Militia, Disbanding of the, [141] 2036;—Gratuity to the, [142] 1099; Reward to the, [143] 336
 Militia, The Irish, Disembodiment of, [142] 1408; [143] 14
 Ministers' Money, (Ireland), Com. moved for, [140] 1005
 Moneys, Public, Com. moved for, [141] 1465
 Morning Sitzings, [142] 1463

[*cont.*PALMERSTON, Rt. Hon. Visct.—*cont.*

National Collections of Art and Science, [141] 151
 National Gallery, The, [141] 1529
 National Gallery Site, 2R. [143] 13
 National Gallery, Site of the, Address moved, [142] 2147, 2156; [143] 556
 Naval Review, The, [141] 1397
 Offences, Trial of, 2R. [140] 1770
 Officers of the House, [140] 836
 Parochial Schools (Scotland), Com. [142] 1464
 Partnership Amendment (No. 2), Com. [143] 343; *cl.* 3, 372; 3R. *cl.* 3, 807
 Peace, Preliminaries of, [140] 1725, 1726
 Peace, Treaty of, [141] 1594, 1707, 1801; Address moved, 2059, 2114; [142] 109, 123
 Persia, Relations with, [140] 1721, 1724
 Police (Counties and Boroughs), Leave, [140] 242
 Political Offenders, Pardon of, [142] 264
 Poor Law Amendment (No. 2), 2R. [142] 2042
 Portuguese Government, Claims on the, [142] 261
 Prussia—Conference at Paris, [141] 47, 48, 159
 Public Works, Com. *cl.* 3, [141] 627
 Redan, Attack on the, [141] 172
 Reformatory and Industrial Schools, Lords' Amends. [143] 1004
 Rolls, Master of the, and the Attorney General for Ireland, [143] 738
 Russia, Trade with—the Armistice, [140] 718; [141] 385, 779
 Russia, War with—The Armistice, [140] 223, 224
 Sadleir, James, Expulsion of, [143] 1405, 1406, 1407, 1408
 St. James's Park, Com. moved for, [140] 1391, 1393
 Sardinian Loan, Com. [142] 1890
 Science, Advancement of, Com. moved for, [142] 1271
 Scotch Members and the Government, [142] 329
 Session, Review of the, [143] 1108; Returns moved for, 1461
 Shipping, Local Charges on, Com. moved for, [141] 211; Appointment of Com. 682, 690
 Shipping, Local Dues on, 2R. [140] 1386, 1388, 1412, 1953, 2112, 2191
 Sound Dues, The, [141] 181; [142] 555
 Spain, Affairs of, [143] 1384
 Spanish Bonds, [143] 1236
 Suffragan Bishops, [142] 593
 Supply, [140] 1670, 1671, 1672;
 [141] Royal Parks, Pleasure Grounds, &c., 234;
 . Audit of Public Accounts, 257, 258;—Educa-
 . tion (Ireland), 526, 536, 540, 542;—National
 . Gallery, 618;—Royal Society, 621;—Consu-
 . lar Establishments, 1023, 1028;—Embas-
 . sies, &c., 1029, 1031;
 [142] Charity Commission, 857;—Bounties on
 . Slaves, &c., 1027;—Constabulary Police at
 . Aldershot, 1033;—Incumbered Estates Com-
 . mission (Ireland), 1049, 1050;—Monument
 . at Scutari, 1051, 1052;—British Historical
 . Portrait Gallery, 1118;—St. James's Park,
 . 1411, 1413, 1414, 1415, 1416, 1567;
 [143] Disembodied Militia, 291, 294, 296
 Talbot v. Talbot, Case of Papers moved for, [140] 1560
 Tenant Right (Ireland), Com. [143] 535
 Tenants' Compensation (Ireland), [140] 89
 Thanksgiving, Day of, [141] 1594; Thanks to the Chaplain for Sermon, 2037

[*cont.*

PALMERSTON, Rt. Hon. Visct.—cont.

Treaties, Secret, [142] 429
 Turkey—Conferences at Constantinople, [140] 612 ;—Edicts of the Sultan, 838 ;—State of the Roads, 1409 ;—Slavery in, 1575 ;—Tariff, [141] 2034, 2035
 United States, Relations with the, [140] 221, 467, 844, 851, 852, 853 ; [141] 478 ; (The Enlistment), 1000, 1001, 2033 ; [142] 979, 1088, 1163, 1403, 1404, 1405, 1507, 1738, 2072 ; [143] 107, 109, 194, 203, 266, 1221
 Vote of Thanks to the Army, Navy, &c. [142] 216
 Whitsuntide Recess, [141] 2033, 2035
 Williams, Sir W. F., Queen's Message, Address moved, [142] 288, 400

PANMURE, Lord (Secretary of State for War)

Army, Administration of the, Papers moved for, [140] 1031, 1033
 Army—Command in Chief [143] 813
 Canada, Troops to, [141] 1143
 Cavalry and Artillery Horses in the Crimea, [141] 773, 774
 Consolidated Fund Appropriation, Com. [143] 1192
 Crimean Commissioners' Report, [140] 505, 507, 508 ;—Board of Inquiry, 1017, 1019, 1020 ; [143] 491, 640 ; Address moved, 1015, 1018, 1021, 1178, 1179
 Dalhousie, Marquess of, Pension to, Correspondence moved for, [142] 213
 Exchequer Bills Funding, 2R. [140] 1939, 1949, 1950
 Foreign Legion, The, [142] 1152
 Legion of Honour, The, [143] 1349
 Militia, The, [142] 1572 ; [143] 630, 632
 Militia, Irish, Disembodiment of the, [142] 1396 ; [143] 1070
 Militia, Mutiny in an Irish Regiment of [143] 543, 1347
 Mortars, Defective, [140] 2204, 2207
 Mutiny, 2R. [140] 2225
 North American Provinces, Military Establishments in the, Address moved, [142] 691
 Parochial Schools (Scotland), Com. cl. 12, [143] 731 ; 3R. 1026 ; Commons' Amends. 1354
 Police (Counties and Boroughs), 2R. [142] 1398 ; Com. cl. 1, 1674 ; cl. 13, 1675 ; Rep. 1894 ; 3R. 2049
 Police, Metropolitan, 2R. [140] 830
 Prisons, Inspectors of, 20th Report, Address moved, [141] 126
 St. James's Park, [141] 770
 Scutari Monument, The, [143] 494
 Sebastopol, Sunken Ships at, [140] 979
 Vote of Thanks to the Army, Navy, &c. [142] 182, 205

Paper Duty,

c. Question (Mr. M. Gibson), [142] 1327

Parishes, Formation, &c. of, Bill,

c. 1R.* [140] 150 ;
 2R. 681 ; Amend. (Mr. Hadfield), 687 ; Amend. withdrawn, 689 ;
 Com. Amend. (Mr. Hadfield), [142] 574 ; Amend. withdrawn, 575 ;
 cl. 2 ; cl. 4, 575 ;
 cl. 25, Proviso (Sir G. Pechell), [143] 554 ; 3R.* 733

Parishes, Formation, &c. of, Bill—cont.

l. 1R.* [143] 812 ;
 2R. 947 ;
 Com. cl. 9, Amend. (Lord Portman), 1090, [o. q. Content 20, Not Content 22, M. 2] 1093 ; 3R.* 1176
 c. Lords' Amends. [143] 1418
 l. Royal Assent [143] 1491

Parks—Bands on Sundays,

c. Question (Marquess of Blandford), [141] 1702 ; (Lord R. Grosvenor), 1911 ;—*Sale of Refreshments*, Question (Mr. T. Chambers), [142] 259 ; (Mr. Otway), 325 ;—see *Scotch Members and the Government*

Parks, Royal, &c.—Supply,

c. [141] 229

Parliament, Houses, of,

Clock and Bells, l. Papers moved for (Marquess of Clanricarde), [140] 148 ; Question (Earl of Eglinton), 806

c. Question (Mr. Hankey), [141] 149

Fire Brigade, The, l. Observations (Lord Redesdale) [141] 963 ; Explanation (Lord Stanley of Alderley), 1140 ; Petition (Lord Redesdale), 1690

Parliament, Houses of—Supply,

c. [141] 239, 249

Parliament, Meeting of,

l. The Queen's Speech ; Address moved (Earl of Gosford), [140] 5 ; Her Majesty's Answer, 89 ;—*Prorogation of*—Speech of Lords' Commissioners, [143] 1491

c. Address moved (Hon. G. Byng), [140] 50 ; Report, 101 ; Her Majesty's Answer, 181 ;—*Prorogation of* [143] 1500

Parma, Austrian Occupation of,

l. Papers moved for (Marquess of Clanricarde), [141] 1390

Parochial Schools (Scotland) Bill,

[141] c. Leave, [141] 663 ; 1R.* 703 ;
 . 2R. 1585 ; Amend. (Mr. Hadfield), 1586 ; [o. q. A. 90, N. 47, M. 43] 1587 ;
 [142] Adj. Debate, [142] 885 ;
 . Question (Sir J. Fergusson), 632 ;
 . Com. 1464 : Amend. (Major C. Bruce), 1469 ; [o. q. A. 126, N. 90, M. 36], 1471 ;
 . cl. 9, Amend. (Sir G. Montgomery), 1991 ; [o. q. A. 107, N. 51, M. 56] 1992 ;
 [143] 3R. 372 ; Amend. (Sir M. S. Stewart), 373, [o. q. A. 149, N. 79, M. 70] 374
 . l. 1R.* [143] 383 ; 2R.* 619 ;
 . Com. cl. 12, Amend. (Duke of Buccleuch), 730, Content 50, Not Content 20, M. 30] 732 ;
 . cl. 13, 732 ;
 . 3R. 1025
 . c. Lords' Amends. 1173
 . l. Commons' Amend. [143] 1352

Partnership Amendment Bill,

c. Leave, [140] 110 ; 1R.* 147 ;
 Postponement of, 2R. [141] 259 ; 2R. 473 ;
 Com. 2200 ;
 Bill withdrawn, 2201

[cont.]

Partnership Amendment (No. 2) Bill,

- c. 1R.* [141] 564;
 [142] 2R. 652; Amend. (Mr. Arch. Hastie), 654; Adj. moved (Mr. Kirk), 661, [A. 75, N. 110, M. 35] 662; [o. q. A. 97, N. 66, M. 31] 666;
 [143] Com. Amend. (Mr. Muntz), 388; [o. q. A. 75, N. 61, M. 14] 364;
 . cl. 1, 364;
 . cl. 3, Amend. (Mr. Gregson), 365; [A. 83, N. 80, M. 3] 368; Amend. (Mr. Spooner), *ib.*; [A. 105, N. 125, M. 20] 372;
 . 3R. cl. 3, Proviso, (Mr. J. G. Phillimore), 801, [A. 108, N. 102, M. 6] 808;
 . Bill withdrawn, 809

Patent Law Amendment—Supply,

- c. [142] 881

Patents, Law of,

- l. Question (Lord Lyndhurst), [143] 1420

PATTEN, Col. J. W., Lancashire, N.

- County Courts Acts Amendment, 3R. *add. cl.* [143] 1202
 Factories, Leave, [140] 1673; 2R. [141] 351, 376, 443; Com. [142] 557, 558; *cl.* 4, 559, 563; *add. cl.* 564
 Imperial Hotel Company, 2R. [140] 1701
 Militia and the Foreign Legions, [142] 804
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1317
 Police (Counties and Boroughs), Com. *cl.* 8, [141] 1936
 Standing Orders, Res. [143] 1103, 1104, 1106

Pauper, Scotch and Irish, Removal Bill,

- c. Leave, [141] 309; 1R.* 314;
 2R. [142] 2156; Bill withdrawn, 2157

Paupers, Settlement and Removal of,

- l. Question (Lord Berners), [140] 217

Pawnbrokers Bill,

- c. 1R.* [141] 2029; 2R.* [142] 258; 3R.* 797
 l. 1R.* [142] 850; 2R.* 1152; 3R.* 1395
 Royal Assent, [142] 1771

PAXTON, Sir J., Coventry

- Army Estimates, [140] 1762, 2068, 2072, 2073, 2082; [142] 1710, 1716
 Army Works Corps, [143] 1496
 Supply—Charity Commission, [142] 861;—
 Science and Art Department, Marlborough
 House Removal, 1125;—St. James's Park, 1139, 1563

Paymaster General—Supply,

- c. [141] 251

Peace Celebration of,

- c. Address moved (Mr. Grogan), [141] 1468;—
 Observations (Lord Lovaine), 1540;—Question (Lord Hotham), 1707

Peace, Preliminaries of,

- c. Question (Mr. Disraeli), [140] 1725

Peace, Treaty of,

- l. Copy laid on the Table (Earl of Clarendon),
 [cont.]

Peace, Treaty of—continued.

- [141] 1591; Address moved (Earl of Ellesmere), 1947; Amend. (Earl of Malmesbury), 1988; Amend. neg. 2028; Her Majesty's Answer, [142] 177
 c. Copy laid on the Table (Visct. Palmerston), [141] 1594; Question (Mr. Layard), 1707; Explanation (Visct. Palmerston), 1800; Address moved (Mr. E. Denison), 2037; Amend. (Lord C. Hamilton), 2105; Adj. moved (Mr. Lindsay), 2113; Adj. Debate, [142] 17; Amend. withdrawn, 136; Report brought up, 137; Her Majesty's Answer, 215

Peace, Preservation (Ireland) Bill,

- [142] l. 1R.* 576; 2R.* 621;
 . Com. 776; Amend. (Earl of Donoughmore), 777; Amend. withdrawn, 780;
 . 3R.* 949
 . c. 1R.* 1085;
 . 2R. 1301; Amend. (Mr. Maguire), 1392, [o. q. A. 77, N. 10, M. 67] 1393;
 . Com. Amend. (Mr. McMahon), 1573; Amend. neg. 1576;
 . *cl.* 1, 1576;
 . *cl.* 2, [A. 98, N. 53, M. 45] 1578;
 . *cl.* 4, Amend. (Mr. I. Butt), 1578;
 . Rep. Amend. (Mr. I. Butt), 1684; Amend. withdrawn, 1685;
 . 3R.* 1733
 l. Royal Assent, [143] 1

PEACOCKE, Mr. G. M. W., Maldon

- Archer, Miss, Assault on, [142] 327
 Ballot, The, Leave, [142] 445
 Crimean Commission Report, [140] 1052
 Monetary System, Com. moved for, [140] 1487
 Naval Review, The, [141] 1401
 Poor Law Amendment, Leave, [141] 438
 Supply—Mr. Boyle's Compensation, [142] 1142
 United States, Relations with the, [143] 137

PECHELL, Rear Adm. Sir G. R., Brighton

- Bible, Authorised Version of the, Address moved, [143] 1225
 Coast-Guard Service, Com. *cl.* 3, [143] 998; *cl.* 4, 999; *cl.* 5, 1000
 Consolidated Fund Appropriation, 3R. [143] 939
 County Court Judges, Salaries of, Address moved, [141] 304
 Health, General Board of, Continuance, Com. [143] 994
 Naval Officers, [143] 515
 Navy Estimates, [142] 1447
 Parishes, Formation of, Com. *cl.* 25, Proviso, [143] 554
 Police (Counties and Boroughs), 2R. [140] 695, 2155; Com. *cl.* 1, [141] 1584; *add. cl.* [142] 613
 Poor Law Amendment, 2R. [142] 615
 Poor Law Amendment (No. 2), 2R. Adj. moved, [142] 2042; Amend. [143] 252
 Supply—Board of Fisheries (Scotland), [142] 883

PEEL, Major Gen. J., Huntingdon

- Crimean Commission Report, [140] 1595; [143] 1117, 1428

**PEEL, Mr. F. (Under Secretary for War),
Bury (Lancashire)**
Aldershot, Review at, [143] 1032
Army, Education of Officers, [142] 1001, 1009
Army Estimates, [140] 1728, 1730, 1732, 1733,
1734, 1735, 1738, 1738, 1743, 1744, 1748,
1749, 1750, 1752, 1760, 1764, 1767, 2069;
[141] 188, 191, 193, 194, 195, 199, 202, 203,
204;
[142] 1540, 1541, 1553, 1557, 1558, 1559,
1560, 1697
Army—Reduction of Officers, [142] 1736;
[143] 734
Army Regulations, [142] 1407
Army, Sale of Commissions in the, Com. moved
for, [140] 1812
Army, Staff of the, [141] 1394; Res. [142]
1689, 1992, 2084, 2085, 2086; [143] 678
Army Works Corps, [143] 1496
Beatson, General, Address moved, [143] 937,
973, 974, 1240, 1243, 1247, 1255, 1497,
1498
Billeting (Scotland), [141] 569; [143] 1219
Commissions, Candidates for, [142] 259
Commissions of Deceased Officers, Address
moved [142] 1524, 1526
Commissions without Purchase, [140] 717
Cornwall Militia, The, [143] 12
Crimea, Sunday Reviews in the, [141] 565
Crimean Army—The Commissariat, [140] 382
Crimean Board of Inquiry, [141] 883, 1799
Crimean Commission Report, [140] 452, 834,
835, 981, 1050, 1051, 1408, 1409, 1479,
1574, 1597, 1601, 1618, 1624, 1670
Crimean Medal—The Sardinian Army, [142]
261
Edinburgh, University of, [143] 332
Edmonton Militia, The, [140] 1576, 1581
Enfield Rifles, The, [140] 1955
Engineers, Promotion in the, [143] 271
Estimates, Appropriation of the, [141] 183
Field Allowances, [141] 1927
Foreign Troops in the English Service, [141]
566, 1048
French Decorations, [143] 1496
German Legion, The, [140] 1409; [142] 428;
[143] 1034
Good Conduct Pay of Sergeants, [143] 1031
Guards' Memorial, The, [140] 90; [142] 1228
Guards, Reduction of the, [143] 862
Horses of Officers in the Crimea, [142] 328,
427, 550
Italian Legion, The, [142] 1401
Land Transport Corps, The, [143] 1032
Legion of Honour, The, [142] 2075
Medals for the Army in the East, [141] 640,
1048, 1049
Medical Officers, [143] 741
Military Rewards, [141] 1581
Militia Allowances, [143] 679
Militia and the Foreign Legions, [142] 801
Militia, Disembodiment of the, [141] 565, 1927;
[142] 16, 682, 2087
Militia, Mutiny in an Irish Regiment of, [143]
557
Militia Pay, Com. [143] 860
Militia, Permanent Staff of the, [141] 1533
Militia, The Irish, Disembodiment of, [142]
267; [143] 734, 741;—The Leitrim, 1495
Militia, The Scotch, [142] 429
Mutiny, 2R. [140] 1672
Redan, Attack on the, [140] 836, 914, 915
Sandhurst, Military College at, [142] 589

[cont.]

PEEL, Mr. F.—continued.

Sebastopol Clasp, The, [141] 1182, 1325
Soldiers' Kits lost in the Crimea [141] 2032
Staff Pay and Allowances [143] 678
Supply—Disembodied Militia, [143] 280, 281,
287, 289, 295
Surgeons, Acting Assisting Army, [143] 1037
Turkish Contingent—English Officers, [142] 555
West Indies, Troops in the, [143] 321
Woolwich, Explosion at, [142] 429

Peerage, The,

i. Observations (Lord Redensdale), [143] 1479

Peerages for Life.

i. Motion (Lord Lyndhurst), [140] 263, [Content
138, Not Content 105, M. 83], 380;
Question (Earl Grey), 449;
Com. moved for (Lord Lyndhurst), 508, 509,
510;
Com. 891, 898, 977, 1022, 1152; Amend.
(Earl Grey), 1179, [o. q. Content 92, Not
Content 57, M. 35], 1216;
Protests, 1218, 1309, 1310;
Report, 1289;
Motion (Lord Glenelg), 1121, [Content 111,
Not Content 142, M. 31], 1149

PELLATT, Mr. A., Southwark

Army Estimates, [140] 1746, 2061; [142]
1552, 1705
Bishops (Scotland) [143] 1486
British Museum—Sunday Opening, Amend.
[140] 1066, 1116
Cambridge University, Com. cl. 25, [143] 848
Dissenters' Marriages, 2R. [140] 1928; Com.
cl. 1, [142] 939; cl. 2, 940, 941; cl. 4, 945,
947
Drafts on Bankers, Leave, [140] 214; 2R.
[141] 119, 439
Education, Vice-President of Committee of
Council on, 2R. [143] 992; 3R. 1217
Good Conduct Pay of Sergeants, [143] 1031
London and Durham, Bishops of, Retirement,
Com. [143] 1368
Metropolis Local Management Act Amend-
ment (No. 2) Lords' Amenda, [143] 1417
Metropolitan Management, [140] 2040
Mutiny, 2R. [140] 1678
Parishes, Formation of, 2R. [140] 687, 688
Partnership Amendment, 2R. [140] 486
Partnership Amendment (No. 2), 3R. cl. 3,
[143] 802
Poor Law, The, [140] 151
Prisons, Management of, [141] 877
Prisoners for Debt, [142] 554
Supply—Houses of Parliament, [141] 249;—
Mint, 252;—British Museum, 600;—Non-
conforming, &c., Ministers (Ireland), Amend.
1241;—British Museum, 1365;—Consta-
bulary Police at Aldershot, [142] 1082;—
Embassy Houses (Abroad), 1042;—Science
and Art Department, Marlborough House
Removal, 1124;—Disembodied Militia, [143]
279
Turkey—Edicts of the Sultan, [140] 833
Wine Duties, Com. moved for, [143] 928

Pensions,

c. Question (Mr. Bowyer), [143] 1424; Ex-
planation (Chancellor of the Exchequer),
1490

Pensions, Hereditary,

c. Question (Sir F. Baring), [141] 1237, 1342

PERCY, Hon. J. W., *Launceston*

St. Pancras Workhouse, [140] 1219, 1220

PERRY, Sir T. E., *Devonport*

Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 957

County Courts Acts Amendments, 3R. *add. cl.* (143) 1205, 1206

Dalhousie, Marquess of, Pension to, [142] 273

Ecclesiastical Courts Jurisdiction, Leave, [140] 404

Edmonton Militia, The, [140] 1579

India, Administration of Justice in, [142] 1409

*India, Revenues of, [141] 1189

Indian Appeals, [143] 555

Indian Budget, The, Com. Res. [143] 1149

Married Women, Rights of, [142] 1273, 1284

Navy Estimates, [140] 589

Nawab of Surat, The, [140] 979

Nawab of Surat Treaty, Rep. [142] 1312

Oude, Kingdom of, [140] 1227;—Annexation of, Returns moved for, 1855

Standing Orders, Res. Amend [143] 1105

Wills and Administrations, 2R. [142] 2040; Com. [143] 304

Persia, Relations with,

c. Observations (Mr. Layard), [140] 1713; Statement (Mr. Layard), [141] 162

Perth and Melfort's, Earl of, Compensation.

c. Report, [142] 1316

PHILIPPS, Mr. J. H., *Haverfordwest.*

Civil Service, Admissions to the, Com. moved for, [141] 1433

Harbours of Refuge (Cardigan Bay), Com. moved for, [140] 677

Police (Counties and Boroughs), Com. *add. cl.* [142] 609

South Wales Lunatic Asylum, [141] 179

PHILLIMORE, Mr. J. G., *Leominster*

Appellate Jurisdiction, 2R. [143] 466

Budget, The—Financial Statement, Res. [142] 384

Cambridge University, Com. [142] 841; *cl.* 4, 843; *cl.* 27, 1204; *cl.* 30, 1211; Rep. *add. cl.* 1741; *cl.* 27, 1745

Civil Service, Admissions to the, Com. moved for, [141] 1432

Coast-Guard Service, 2R. [143] 858

Contractors' Disqualification Removal, Leave, [140] 679, 680

County Courts Acts Amendment, Com. [143] 692; *cl.* 5, 693; *cl.* 20, 695

Ecclesiastical Courts Jurisdiction, Leave, [140] 405

Ecclesiastical Courts, Reform of the, [143] 681

Hinds, Miss, Murder of, [142] 286

India, Administration of Justice in, [142] 1409

India, Revenues of, [141] 1234

Italy, Affairs of, Address moved, [143] 793

Joint-Stock Companies, Leave, [140] 146; Com. *cl.* 37, [142] 643, 644**PHILLIMORE, Mr. J. G.—continued.**

Joint-Stock Companies Winding-up Acts Amendment, 2R. [142] 1768

Judges and Chancellors, Leave, [142] 452, 458, 465; Com. 2045, 2046

Judicial Bench (Ireland), Returns moved for, [140] 803

Kars, Fall of, Res. Adj. moved, [141] 1688, 1718

Married Women, Rights of, [142] 1281

Mercantile Law Amendment, 2R. [143] 810

Navy Estimates, [142] 1437

Nawab of Surat Treaty, Rep. [142] 1314

Oude, Kingdom of, [140] 1227

Partnership Amendment, Leave, [140] 146; 2R. 488

Partnership Amendment (No. 2), 3R. *cl.* 3, Proviso, [143] 801

Perth and Melfort's, Earl of, Compensation, Rep. [142] 1319

Police (Counties and Boroughs), Com. *cl.* 7, [141] 1985Reformatory Schools, Com. *add. cl.* [142] 569, 571

Statute Law, Consolidation of the, Leave, [140] 749

Supply—Education (Ireland), [141] 529;—Embassies, &c., 1031;—Superannuation Allowances, 1037;—Statute Law Commission, [142] 875;—Revising Barristers, [141] 1030;—British Historical Portrait Gallery, 1117, 1118

Talbot v. Talbot, Case of, Papers moved for, [140] 1544, 1553, 1562

United States, Relations with the, [143] 78, 170

Wills and Administrations, 2R. [142] 2039, 2040

PHILLIMORE, Mr. R. J., *Tavistock*

Appellate Jurisdiction, 2R. [143] 423

Cambridge University, Com. *cl.* 27, [142] 1206; *cl.* 38, 1213

Carlisle Canonries, Leave, [140] 896

Dissenters' Marriages, 2R. [140] 1929; Com. *cl.* 2, [142] 940; *cl.* 4, 943; *cl.* 11, 948

Ecclesiastical Courts Jurisdiction, Leave, [140] 402

Oxford University, Address moved, [140] 2031

Parishes, Formation of, Com. [142] 575

Peace, Treaty of, Address moved, [142] 20

Shipping, Local Charges on, Appointment of, Com. [141] 691

Statutes at Large, Amend. [140] 998

Tithe Commutation Rent-Charge, Leave, [140] 1850; 2R. [142] 138; Com. [143] 811

Wills and Administrations, [141] 1529; 2R. [142] 2040

Physicians, College of,c. Question (Mr. Kinnaird), [141] 872;—*Charter of the*, Question (Mr. Kinnaird), [143] 733**PIGOTT, Mr. F., *Reading***

Army Estimates, [140] 2079

Church Rates (No. 2), 2R. [142] 473

Justices of the Peace Qualification, Com. *cl.* 14, [142] 480

Poor Law Medical Relief, [140] 1406

Piracy in the Eastern Archipelago,

l. Question (Earl of Albemarle), [140] 912

Plumstead, Church Accommodation at,

c. Motion (Marquess of Blandford), [142] 1103 ;
Motion withdrawn, 1107

Poisons, Sale of,

l. Question (Lord Campbell), [143] 540

Poland,

l. Question (Lord Lyndhurst), [143] 632

Police (Counties and Boroughs) Bill,

140] c. Leave, 229 ; 1R.* 245 ;

2R. 690 ; Amend. (Mr. Haddfield), 691,
2113 ; Amend. (Mr. C. Forster), 2153,
[o. q. A. 259, N. 106, M. 153] 2188 ;

141] Com. cl. 1, 1584 ; Amend. (Mr. Henley),
1589, [o. q. A. 268, N. 94, M. 174]
1588 ;

cl. 2, 1584, [A. 198, N. 62, M. 136] 1585 ;

cl. 3, 1928 ;

cl. 5, Amend. (Mr. Adderley), 1930 ;
Amend. withdrawn, *ib.* ; Amend. (Mr.
Headlam), [o. q. A. 77, N. 73, M. 4]
1931 ;

cl. 6, Amend. (Mr. Price), 1931 ;

cl. 7, Amend. (Mr. Horsfall), 1932 ; Amend.
withdrawn, 1934 ; Amend. (Lord Lovaine),
ib. ; (Mr. Watson), [o. q. A. 139, N. 18,
M. 121] 1935 ;

cl. 8 ; cl. 9, 1936 ;

cl. 10, Amend. (Lord H. Lennox), 1937, [o. q.
A. 175, N. 116, M. 59] 1942 ; [o. q. A. 199,
N. 100, M. 99] *ib.* ;

cl. 11, Amend. (Sir W. Jolliffe), 1942 ;

142] cl. 6, Amend. (Sir W. Jolliffe), 298 ; Amend.
withdrawn, 298 ; Amend. (Sir H. Wil-
loughby), 300, [o. q. A. 160, N. 106, M. 54]
306 ;

cl. 11, [A. 186, N. 75, M. 111] 307 ;

cl. 12, 308 ;

add. cl. (Mr. Rice), 308 ; Motion neg.
309 ;

add. cl. (Mr. Massey), 309 ;

Rep. add. cl. (Sir G. Grey), 605 ;

add. cl. (Sir H. Stracey), 606 ; cl. withdrawn,
607 ;

add. cl. (Mr. Bentinck), 607 ; cl. withdrawn,
610 ;

add. cl. (Lord Lovaine), 610 ; cl. withdrawn,
614 ; 3R.* 797

142] l. 1R.* 850 ; 2R.* 1398 ;

Com. cl. 1, 1673 ;

cl. 13, 1674 ;

cl. 14, 1675 ;

Rep. 1894 ; 3R.* 2048

143] Royal Assent, 1064

Police, Metropolitan, Bill,

c. Leave, [140] 178 ; 1R.* 181 ;

2R. 262 ;

Com. 447 ;

3R. 473 ;

l. 1R.* [140] 504 ;

2 R. 820 ; 3R.* 977

Royal Assent, [140] 1445

Police, Metropolitan—Supply,

c. [141] 269

Polish, &c., Refugees—Supply,

c [141] 1042

Political Offenders, Pardon of,

c. Question (Mr. T. Duncombe), [142] 262

*Pollok, Mr., Case of—Evictions (Ire-
land),*

c. Com. moved for, (Mr. McMahon), [141] 1707 ;
Motion withdrawn, 1718 ; — Observations,
(Sir M. S. Stewart), [142] 697

Poor Law, The,

c. Question (Mr. Pellatt), [140] 151 :—*Medical
Relief*, Question (Mr. Pigott), 1406 ; (Sir J.
Trollope), [142] 1493

Poor Law Amendment Bill,

c. Leave, [141] 436 ; 1R.* 438 ;
2R. [142] 614 ; Bill withdrawn, 616

Poor Law Amendment (No. 2) Bill,

c. Leave, [142] 616 ; 1R. *ib.* ;
2R. Adj. moved, (Sir G. Pechell), [A. 53,
N. 75, M. 22] [142] 2042 ; Adj. Debate,
[143] 252 ; Amend. (Sir G. Pechell),
256

Poor Law Amendment (Scotland) Bill,

c. 1R.* [142] 466 ; 2R.* 797 ;
3R. Amend. (Mr. Blackburn), [143] 810,
[o. q. A. 95, N. 25, M. 70] 811
l. 1R.* [143] 812 ; 2R.* 1063 ; 3R.* 1347
Royal Assent, [143] 1491

Poor Law (Ireland) Bill,

c. 1R.* [141] 778 ;
c. 2R. [142] 1664 ; Adj. moved (Mr. J. D.
Fitzgerald), 1665 ; Adj. Debate, [143] 1275 ;
Bill withdrawn, *ib.*

*Poor Law Commissioners (Ireland), Se-
cretary to the, Bill,*

c. 1R.* [140] 1311 ; 2R.* 1478 ; 3R.* 1699
l. 1R.* [140] 1770 ; 2R.* [141] 120 ; 3R.*
377
Royal Assent, [141] 870

Poor Laws—Supply,

c. [141] 252

Poor, Medical Officers for the,

c. Question (Sir J. Trollope), [142] 1493

*Popish Guardians Restrictions Repeal
Bill,*

l. 1R.* [140] 2202

PORTMAN, Lord

Burial Acts Amendment, 2R. [143] 110

Burial-Ground, Blandford, [142] 961, 962, 970,
973, 974, 975 ; Explanation, 1219 ; — Great
Torrington, 2069

Grand Juries, 2R. [142] 1966

Marriage Law Amending, Commons Amends.
[143] 1352

Parishes, Formation of, Com. cl. 9, Amend.
[143] 1090, 1093

Portraits, National Gallery of,

l. Motion (Earl Stanhope), [140] 1770

PORTSMOUTH, Earl of
Burial-Ground, Blandford, [142] 974;—Great
Torrington, 2064

Portuguese Government, Claims on the,
c. Question (Mr. T. Chambers), [142] 261

Postage Labels,
c. Com. moved for, (Mr. Whiteside), [142] 1284;
[A. 39, N. 57, M. 18] 1296

Postage of Letters—Supply,
c. [141] 269

Post Office Services—Supply,
c. [140] 865

POWIS, Earl of
Annuities Redemption, 3R. [143] 11
Grand Juries, 2R. [142] 1967
London and Durham, Bishops of, Retirement,
1R. [143] 548; 3R. 1097
Police (Counties and Boroughs), Rep. [142]
1894

POWLETT, Lord W. J. F., Ludlow
Naval Review, The [141] 1390

Press, The, and Lord Denman,
l. Observations (Lord Denman), [142] 1054

PRICE, Mr. W. P., Gloucester
Police (Counties and Boroughs), Com. cl. 6,
Amend. [141] 1931

Printing Expenses—Returns,
c. Observations (Mr. Wilson), [141] 386

Prisons and Prisoners—Supply,
c. [141] 270, 523

Prisons, Inspection of,
c. Question (Mr. Adderley), [140] 382

Prisons, Inspectors of, 20th Report,
l. Address moved (Earl of Shaftesbury), [141]
123; Motion withdrawn, 127

Prisons, Management of,
c. Question (Mr. Bowyer), [141] 875

Prisons (Ireland) Bill,
c. 1R.* [140] 150; 2R.* 1311;
Com. cl. 3, Amend. (Mr. Macartney), [143]
114; Amend. neg. 115;
cl. 4, [A. 66, N. 9, M. 57] 116; 3R.* 549
l. 1R.* [143] 619; 2R.* 812; 3R.* 1007
Royal Assent, [143] 1064

Prisoners for Debt,
c. Question (Mr. Pellatt), [142] 554

Privy Council—Supply,
c. [141] 251

Privy Seal—Supply,
c. [141] 251

Procedure and Evidents Bill
c. 1R.* [141] 1528; 2R.* [142] 325

Procedure before Justices (Scotland) Bill,
l. 1R.* [141] 1906; 2R.* [142] 310; 3R.* 621
c. 1R.* [142] 922; 2R.* 1649; 3R.* [143] 320
l. Royal Assent, [143] 710

Proctors in Ecclesiastical Courts Bill,
c. 1R.* [143] 1103

Property, Malicious Injuries to, Bill,
l. 1R. [143] 1089

Property, Offences against, Bill,
l. 1R. [143] 1089

Prosecutions—Supply,
c. [141] 269

Protests, l.
Appellate Jurisdiction Bill, [142] 1084, 1085
Joint-Stock Companies Bill, [142] 1490
London and Durham, Bishops of, Retirement
Bill, [143] 841, 1102
Peerages for Life, [140] 1218, 1309, 1310;

Prussia, Neutrality of.
c. Observations (Mr. Bentinck), [140] 105;—
Foreign Enlistment, Question (Mr. Baillie),
383;—*Conference at Paris*, Question (Mr.
Disraeli), [141] 47, 153

Public Accounts Commissioners—Supply,
c. [142] 1052

Public Offices,
c. Question (Mr. Oliveira), [142] 1098

Public Records—Supply,
c. [141] 252

Public Works Bill,
c. 1R.* [141] 277; 2R.* 466;
Com. 623; Amend. (Mr. Blackburn), [r. p.
A. 16, N. 107, M. 91] 625;
cl. 2, 625; Amend. (Mr. Liddell), [A. 28,
N. 79, M. 51] 626;
cl. 3, 626; 3R.* 999
l. 1R.* [141] 1046; 2R.* 1140; 3R.* 1248
Royal Assent, [141] 1688

Public Works (Ireland) Bill,
c. 1R.* [141] 277; 2R.* 466; 3R.* 999
l. 1R.* [141] 1046; 2R.* 1140; 3R.* 1248
Royal Assent, [141] 1688

Public Works, Loan Commission—Supply,
c. [142] 262

Quarantine Expenses—Supply,
c. [142] 1030

QUEEN'S SPEECH—OPENING OF THE PAR-
LIAMENT,
l. Address moved (Earl of Gosford), [140] 5;
Her Majesty's Answer, 89
c. Address moved (Hon. G. Byng), [140] 50;
Report, 101; Her Majesty's Answer, 181

Queen's Colleges (Ireland) Bill

c. 1R.* [142] 1807

Racehorse Duty Bill.c. 1R.* [143] 549; 2R.* 788;
3R. 1030l. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
Royal Assent, [143] 1491**Railway Accidents,**

c. Question (Mr. Otway), [142] 2091

Railway and Canal Traffic Bill,

c. 1R.* [140] 1951

Railway Legislation,

c. Question (Mr. E. Ball), [140] 1953

Railways Act (Ireland) 1851, Continuance Bill.

c. 1R.* [143] 398; 2R.* 525; 3R.* 641

l. 1R.* [143] 710; 2R.* 946; 3R.* 1063
Royal Assent, [143] 1490**RAVENSWORTH, Lord**

Abjuration, Oath of, 2R. [142] 1799

Bank Charter Act, Commission moved for, [141]
563

Marriage Law Amendment, 2R. [141] 1518

Naval Review, The, [141] 1384, 1475

Poisons, Sale of, [143] 541

Reformatory and Industrial Schools, 2R. [142]
1160; Com. 1324, 1325; Rep. 1676; 3R.
add. cl. [143] 230

St. James's Park, [142] 576

RAYNHAM, Lord, Tamworth

St. James's Park, [141] 999

Smithfield, Site of, [143] 1499

Reciprocity, Treaties of—Supply,

c. [142] 1028

Records, General Repository for—Supply,

c. [142] 1038

Redan, Attack on the,c. Question (Mr. Layard), [140] 835, 914; (Col.
French), [141] 170**REDESDALE, Lord (Chairman of Committees)**

Annuities Redemption, [143] 12

Appellate Jurisdiction, 3R. [142] 789; Com.
916, 917; Rep. 950

Burial Acts Amendment, 2R. [143] 111

Burial-Ground, Blandford, [142] 967:—Great
Torrington, 2069Business of the House, Res. [140] 909, 912;
[142] 245, 247, 1400, 1401; [143] 1180Capital Punishment, Com. moved for, [142]
281

Convocation, [143] 397

Divorce and Matrimonial Causes, 2R. [142]
423; Com. 1984; Rep. 1987, [143] 237Estates, Leases and Sales of Settled, Commons'
Amends. [143] 1480Gloucester and Bristol, Bishopric of, [142]
1154

Judges, Scotch, Privileges of, [141] 762

[cont.]

REDESDALE, Lord—continued.London and Durham, Bishops of, Retirement,
1R. [143] 546, 548, 549; 2R. Amend. 814;
Com. 948; 3R. Amend. 1094; Commons'
Amends. 1479

Nawab of Surat Treaty, 2R. Amend. [143] 384

Parishes, Formation of, 2R. [143] 948

Parliament, Houses of—The Fire Brigade, [141]
963, 1140, 1690

Peace Preservation (Ireland), Com. [142] 778

Peerages, The, [143] 1479

Peerages for Life, Com. [140] 594, 610; Re-
port, 1289, 1308

Portraits, National, Gallery of, [140] 1788

St. James's Park, [142] 584

Scotch and Irish Peers, Expenses of, [143] 113

Turnpike Trusts Arrangements, 2R. [140]
1447**REED, Major J. H.; Abingdon**

Crimean Commission Report, [140] 1409

Edmonton Militia, The, [140] 1580, 1581

Medical Officers, [143] 741

Surgeons, Acting Assistant Army, [143] 1037

United States, Relations with the, [142] 1163,
1660**Reformatories for Female Penitents,**c. Com. moved for (Mr. Biggs), [143] 934;
Motion withdrawn, 935**Reformatories, Juvenile,**

c. Question (Sir J. Pakington) [140] 92

Reformatory Schools,c. Question (Mr. Moody), [141] 385; (Lord R.
Ceil), 874; (Viscount Newport), [142] 1161;
(Mr. A. Smith), 2073**Reformatory Schools (Scotland) Bill,**

c. 1R.* [140] 979;

2R. [141] 2;

Com. cl. 1, [142] 237; 3R.* 631

l. 1R.* [142] 668; 2R.* 850; 3R.* 949

Royal Assent, [142] 1771

Reformatory and Industrial Schools Bill,

c. 1R.* [141] 220; 2R.* 1105;

[142] Com. add. cl. (Sir S. Northcote), 566

. add. cl. (Mr. Gordon), 569, [A. 57, N. 80,
M. 23] 572;. add. cl. (Mr. Miles), 572; cl. withdrawn, 574;
3R.* 797

l. 1R.* [142] 850;

. 2R. 1160;

. Com. 1324;

. Rep. 1676;

[143] 3R. add. cl. (Bishop of Oxford), 229, [Con-
tent 53, Not Content 17, M. 36] 230c. Lords' Amends. Amend. (Sir G. Grey), [143]
1003, [A. 46, N. 31, M. 15], 1005

l. Royal Assent, [143] 1491

Refuge for the Destitute—Supply,

c. [141] 1042

Register Office, General—Supply,

c. [141] 261

Religious Worship Penalties Repeal Bill,

l. 1R. [140] 2202

Revenue Police—Supply,
c. [140] 865

Revenue (Transfer of Charges) Bill,
c. 1R.* [143] 252; 2R.* 319; 3R.* 549
l. 1R.* [143] 619; 2R.* 710; 3R.* 948
Royal Assent, [143] 1064

Revising Barristers—Supply,
c. [142] 1030

RICARDO, Mr. J. L., Stoke-upon-Trent
Army Estimates, [140] 1256

RICE, Mr. E. R., Dover
Justices of the Peace Qualification, 2R. [140] 1442
Police (Counties and Boroughs), Leave, [140] 241; 2R. 2180; Com. cl. 5, [141] 1930; cl. 10, 1938; cl. 6, [142] 297; add. cl. 308, 609
Shipping, Local Dues on, Leave, [140] 175; 2R. 1372
Supply—British Historical Portrait Gallery, [142] 1122

Rice, Distillation from, Bill,
c. 1R.* [142] 2071; 2R.* [143] 12; 3R.* 206
l. 1R.* [143] 229; 2R.* 383; 3R.* 540
Royal Assent, [143] 710

RICH, Mr. H., Richmond
Army, Education of Officers, [142] 1014, 1019
Army Estimates, [142] 1550
Army, Sale of Commissions in the, Com. moved for, [140] 1825
Civil Service, Admissions to the, Com. moved for, [141] 1439; [143] 530
Civil Service Superannuation, Leave, [140] 885
St. James's Park, [141] 1187
Sandhurst, Education at, [143] 268

RICHARDSON, Mr. J. J., Lisburn
Factories, 2R., [141] 444
Shipping, Local Charges on, Appointment of Com. [141] 868

RICHMOND, Duke of
Agricultural Statistics, 3R. [141] 629, 632
London and Durham, Bishops of, Retirement, 1R. [143] 549
Militia, The, [143] 627

RIDLEY, Mr. G., Newcastle-on-Tyne
London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1413
Merchant Seamen, [143] 1034
Shipping, Local Dues on, 2R. [140] 1363
Supply—Treaties of Reciprocity, [142] 1028

Roads (South Wales), Superintendent of—Supply,
c. [141] 262

ROBARTS, Mr. T. J. A., Cornwall E.
Cornwall Militia, The, [143] 12

ROEBUCK, Mr. J. A., Sheffield

Abjuration, Oath of, Com. cl. 2 [142] 601, 602, 603

Address in Answer to the Speech, [140] 77

Alien Act—Colonel Turr, [140] 91, 92

Appellate Jurisdiction, Com. [143] 612

Bank Frauds, [143] 1034

Beatson, General, [143] 973, 974, (Motion), 1238, 1250, 1256, 1263, 1489, 1497, 1498

Church Rates Abolition (No. 2), 2R. [140] 1928

Civil Service Superannuation, Leave, [140] 890; Com. [143] 1046

Coast-Guard Service, 2R. [143] 839

County Court Judges, Salaries of, Address moved, [141] 279, 308; [143] 320

County Courts Acts Amendment, Com. [143] 691; cl. 20, 694, 695; Rep. cl. 82, Amend. [143] 996; 3R. add. cl. 1205; cl. 10, 1206

Crimean Commission Report, [140] 981, 1411; Motion, 1582, 1600, 1602, 1670

Danubian Principalities, The, [142] 851, 852

Education, National, [140] 1992

Foreign Legion, The, [143] 1036

German Legion, The, [143] 1110

Joint Stock Banks, 3R. [143] 1119

Justices of the Peace Qualification, Com. cl. 11, [142] 479

London and Durham, Bishops of, Retirement, 2R. [143] 1296; Com. cl. 3, Amend. 1384, 1408, 1409, 1410; cl. 5, Amend. 1414, 1415; Preamble, 1416; 3R. 1429; Preamble Amend. 1430

Maynooth College, Com. [141] 1093

Mercantile Law Amendment, 2R. [143] 810; Com. cl. 2, 1000

Napier, Sir C., at Acre, [141] 514

New Zealand, Salary of the Bishop of, [143] 331

Oude, Kingdom of, [140] 1228

Partnership Amendment (No. 2), Com. [143] 339; 3R. cl. 3, 802

Pensions, [143] 1424, 1425

Police (Counties and Boroughs), Com. cl. 6, [142] 304; cl. 11, 307

Prussian Neutrality, [140] 106, 110

Reformatory and Industrial Schools, Lords' Amends. [143] 1004

Rolls, Master of the, and the Attorney General for Ireland, [143] 708, 737

Rules of the House, [143] 643

Sabbath, Observance of the—Shaving on Sundays, [140] 1052, 1053

Sadler, James, Expulsion of [143] 1386, 1396, 1406, 1408

St. James's Park, Com. moved for, [140] 1392

Scotch Members and the Government, [142] 328

Shipping, Local Dues on, 2R. [140] 1388

Smith, Dr. Southwood, [142] 595

Standing Orders, Res. [143] 1106

Supply—British Historical Portrait Gallery, [142] 1120

Turkish Tariff, The, [141] 2035

United States, Relations with the, [140] 837, 844, 853, [142] 1088

Royal Society—Supply,

c. Amend. (Mr. Blackburn), [141] 620; Amend. withdrawn, 622

Rules of the House,

c. Question (Mr. M. Gibson), [143] 641

RUSSELL, Rt. Hon. Lord J., London

Abjuration, Oath of, 2R. [141] 741; Com. cl. 2, Amend. [142] 599, 605; 3R. 1183
 Appellate Jurisdiction, [142] 2096; 2R. [143] 468, 509
 Church Rates Abolition (No. 2), 2R. [140] 1912, 1915
 Education, National, [140] 1222; Motion, *1955, 1981, 1982, 1998, 2013; Com. [141] 779; Res. 780, 806, 834, 866, 889, 926, 928, 958
 Education (Ireland), Res. [142] 1862
 Italy, Affairs of, Address moved, [143] 741, 797
 Judges and Chancellors, Leave, [142] 462
 Kars, Fall of, Res. [141] 1879
 Laws, Amendment of the, Res. [140] 651
 Ministers' Money (Ireland), Com. moved for, [140] 1007
 Ministers' Money (Ireland), 2R. [141] 1137
 National Gallery, Site of the, Address moved, [142] 2129
 Peace, Treaty of, Address moved, [141] 2086
 Police (Counties and Boroughs), Com. add. cl. [142] 612
 Prussian Neutrality, [140] 108
 Supply—West Indies (Governors, &c.), [141] 1004, 1007;—British Museum, 1344, 1365; Statute Law Commission, [142] 876
 United States, Relations with the, [142] 1405, 1499

Russia,

Forts on the Black Sea, c. Question (Lord J. Manners), [141] 1908
Kars, Fall of, l. Observation (Earl of Malmesbury), [140] 2095
 c. Question (Mr. Whiteside), [140] 1051
Redan, Attack of the, c. Question (Mr. Layard), [140] 835, 914
Sebastopol, Sunken Ships at, l. Question (Earl of Hardwicke), [140] 978
Ships in the Black Sea, c. Question (Lord W. Graham), [141] 1910
Trade with—The Armistice, c. Question (Col. Dunne), [140] 223; (Mr. Mitchell), [141] 384; (Mr. J. Ewart), 770;—see *Circassia—Crimea—Turkey*

Sabbath, Observance of the—Shaving on Sundays,

c. Question (Mr. Roebuck), [140] 1052; (Mr. Murrugh), 2036

Sadleir, James, and the Tipperary Bank,

c. Question (Mr. I. Butt), [143] 381; (Mr. G. H. Moore), 399; (Mr. Macartney), 644;—see *Ireland—Rolls, Master of the*

Sadleir, James, Expulsion of,

c. Motion (Mr. Roebuck), [143] 1386; Amend. (Mr. J. S. Wortley), 1398; Amend. withdrawn, 1408; Previous Question put and neg. ib.

Sailing Vessels, Regulations for,

l. Question (Visct. Dungannon), [142] 850

ST. ASAPH, Bishop of

Burial-Ground, Blandford, [142] 975

ST. DAVID'S, Bishop of

Cambridge University, Com. cl. 44, [143] 318
 Divorce and Matrimonial Causes, Com. [142] 1985; Rep. [143] 240
 Marriage Law Amendment, 2R. [141] 1523

ST. GERMANS, Earl of

Abjuration, Oath of, 2R. [142] 1803
 Burial-Ground—Great Torrington, [142] 2063
 Divorce and Matrimonial Causes, Com. [142] 1978
 Marriage Law Amendment, 1R. [141] 33; 2R. 1475, 1527
 Ticket-of-Leave System, Returns moved for, [140] 1404

St. Helena—Supply,

c. [141] 1009 .

St. James's Park,

l. Motion (Marquess of Clanricarde), [141] 763; Observations (Lord Ravensworth), [142] 576
 c. Question (Mr. Hutchins), [140] 150; Com. moved for (Sir B. Hall), 1388; Adj. moved (Mr. Hindley), 1389; Motion neg. 1393; Nomination of Com. 1429; Question (Mr. L. Davies), [141] 870; (Lord Raynham), 999; Observations (Sir B. Hall), 1184; Question (Mr. Stafford), [142] 1090

St. James's Park—Supply,

c. [142] 1133; [A. 70, N. 192, M. 122] 1141; 2nd Res. 1411, [A. 182, N. 95, M. 87] 1417; Rep. 1560; [A. 119, N. 93, M. 26] 1569

ST. LEONARDS, Lord

Appellate Jurisdiction of the House of Lords, Com. moved for, [140] 1469; Com. [142] 909, 916; cl. 1, 921; That the Bill do pass, 1083

Chancery Reform, [142] 9, 16

County Courts Act Amendment, 2R. [142] 9

Death Punishment on Women, [142] 1056

Debt and Contempt of Court, Imprisonment for, [142] 1570, 1571

Estates, Leases and Sales of Settled, Com. [140] 2097

Hampstead Heath—Leases and Sales of Settled Estates, [142] 1571

Hinds, Miss, Murder of, [142] 180

Marriage Law Amending, 2R. [142] 206

Mercantile Law Amendment, 3R. [142] 181; Re-com. 1159

Peace Preservation (Ireland), Com. [142] 779

Peerages for Life, [140] *296; Com. moved for, 512; Com. 593, 599, 602, 903, 905, 908

St. James's Park, [142] 585

Turnpike Trusts Arrangements, 2R. [140] 1448

St. Pancras Workhouse,

c. Question (Mr. Percy), [140] 1219; (Sir J. Pakington), 2111; [142] 1228

ST. VINCENT, Viscount

Judicial Reflections on Members, [143] 1422, 1423

SALISBURY, Marquess of

- Agricultural Statistics, Com. *cl.* 2, [141] 463
 Burial-Ground, Blandford, [142] 957, 962, 967
 Parishes, Formation of, Com. *cl.* 9, [143] 1091
 Sleeping Statutes, 2R. [142] 1896
 Ticket-of-Leave System, Returns moved for, [140] 1402; Address moved, [141] 1145; [142] 256
 Vote of Thanks to the Army, Navy, &c., [142] 205

SALISBURY, Bishop of

- Divorce and Matrimonial Causes, Rep. [143] 244, 247

Sandhurst, Military College at,

- c.* Question (Col. North), [142] 588;—*Education at*, Question (Mr. Rich), [143] 268

SANDWICH, Earl of

- Huntingdon, Postmaster of, [141] 1046

Sardinian Loan, The,

- l.* Message from the Queen, [142] 1471; Address moved (Earl of Clarendon), 1671
c. Question (Mr. Disraeli), [142] 555;—Message from the Queen, 1326; Res. (Chancellor of the Exchequer), 1497

Sardinian Loan Bill,

- c.* 1R.* [142] 1679; 2R.* 1733; Com. 1889; 3R.* 1898
l. 1R.* [142] 1890; 2R.* 1966; 3R.* 2048
 Royal Assent, [143] 1

SCHOLEFIELD, Mr. W., Birmingham

- Fire Insurances—French Offices, [140] 718
 West Indies, Troops in the, [143] 320

Schools, Ragged, in Dublin,

- c.* Question (Mr. De Vere), [142] 259

Schools, Reformatory,

- c.* Question (Mr. Moody), [141] 385; (Lord R. Cecil), 874; (Visct. Newport), [142] 1161; (Mr. A. Smith), 2073

Schools, Reformatory and Industrial, Bill,

- c.* 1R.* [141] 220; 2R.* 1105;
 [142] Com. *add. cl.* (Sir S. Northcote), 566;
add. cl. (Mr. Gordon), 569, [A. 57, N. 80, M. 23] 572;
add. cl. (Mr. Miles), 572; *cl.* withdrawn, 574; 3R.* 797
l. 1R.* [142] 850;
 2R. 1160;
 Com. 1324;
 Rep. 1676;
 3R. *add. cl.* (Bishop of Oxford), 229, [Content 53, Not Content 17. M. 3] 230
c. Lords' Amends., Amend. (Sir G. Grey), [143] 1003, [A. 46, N. 31, M. 15] 1005
l. Royal Assent, [143] 1491

Schools (Scotland) Bill,

- l.* 1R.* [140] 263

Schools, Parochial (Scotland), Bill,

- c.* Leave, [141] 663; 1R.* 703;
 2R. 1585; Amend. (Mr. Hadfield), 1586; [*o. q.* A. 90, N. 47, M. 43] 1587; Adj. Debate, [142] 885;
 [142] Question (Sir J. Fergusson), 632;
 Com. 1464; Amend. (Major C. Bruce), 1469, [*o. q.* A. 126, N. 90, M. 36] 1471;
cl. 9, Amend. (Sir G. Montgomery), 1991, [*o. q.* A. 107, N. 51, M. 56] 1992;
 [143] 3R. 372; Amend. (Sir M. S. Stewart), 373, [*o. q.* A. 149, N. 79, M. 70] 374
l. 1R.* [143] 383; 2R.* 619;
 Com. *cl.* 12, Amend. (Duke of Buccleuch), 387, [Content 50, Not Content 20, M. 30] 732
cl. 13, 732;
 3R. 1025
c. Lords' Amends. [143] 1172
l. Commons' Amends. [143] 1352

Schools, Reformatory (Scotland) Bill,

- c.* 1R.* [140] 979;
 2R. [141] 2;
 Com. *cl.* 1, [142] 237; 3R.* 631
l. 1R.* [142] 668; 2R.* 850; 3R.* 949
 Royal Assent, [142] 1771

Science, Advancement of,

- c.* Com. moved for, (Mr. Heywood), [142] 1263; Motion withdrawn, 1273

Science and Art Department—Supply,

- c.* [141] 525

Science and Art Department (Marlborough House Removal)—Supply,

- c.* [142] 1124;

Scientific and Literary Societies Bill,

- c.* 1R.* [141] 1799; 2R.* [142] 137;
 Com. *cl.* 2, Amend. (Mr. Hutt), 938; Amend. withdrawn, 939; [143] 224, [*r. p.* A. 25, N. 117, M. 92] 229

SCOBELL, Capt. G. T., Bath

- Aggravated Assaults, 2R. [142] 174
 Army Estimates, [140] 1743
 Baltic, Operations in the, Com. moved for, [141] 106
 Crimea, Return of Troops from the, [142] 1097
 Justices of the Peace Qualification, Com. *cl.* 11, [142] 479
 Naval Administration, Com. moved for, [140] 406, 446
 Naval Officers, [143] 510, 523
 Naval Review, The, [141] 1398
 Navy Estimates, [140] 556, 562, 587, 588; [142] 1434
 Police (Counties and Boroughs), 2R. [140] 695, 2150; Com. *cl.* 1, [141] 1582; *cl.* 7, 1934; *cl.* 9, 1937; *cl.* 6, [142] 306; *add. cl.* 613
 Soldiers' Kits lost in the Crimea, [141] 2032
 Supply—Coast Guard, [140] 862;—Post Office Services, 868;—Emigration, [141] 1011;—Superannuation Allowances, 1039
 Troops, Conveyance of, from the Crimea, [141] 2032
 Valour, Order of, [142] 2090

Scotch Members and the Government,

- c.* Question (Mr. Roebuck), [142] 328

Scotland,

Aberdeen Universities, c. Question (Mr. Thompson), [142] 1494; (Mr. H. Baillie), 1679
Billeting, c. Motion (Mr. Cowan), [141] 566, [A. 139, N. 116, M. 23] 585; Question (Sir A. Agnew), [143] 1219
Bishops, c. Observations, (Mr. Gladstone) [143] 1481
Edinburgh, University of, c. Question, (Mr. Cowan), [143] 332
Episcopal Church, The, c. Question, (Mr. Hadfield) [143] 740;—*Biennial Grant to the,* Question (Mr. Gordon), 977
Fireworks, c. Address moved (Mr. Grogan), [141] 1468
Housebreaking, c. Question (Mr. Cowan), [143] 118
Judges, Privileges of, l. Motion (Lord Campbell), [141] 762
Marriage, Law of, l. Petition (Lord Brougham), [141] 1381
Militia, The, c. Question (Mr. W. Lockhart), [142] 429;—*The Ross-shire Rifles, Observations* (Earl of Dalkeith), [143] 1489
Parochial Schools, c. Question (Sir J. Ferguson), [142] 632
Peers, Expenses of, l. Com. moved for, (Earl of Donoughmore), [143] 111
Registration, c. Question (Mr. Alex. Hastie), [141] 41
Supply—Port Patrick Harbour, [141] 248;—*Remembrancer of Exchequer*, 263;—*Registrar General of Births*, 261;—*Law Court and Officers*;—*General Register House*, 269;—*Scottish Universities*, 589;—*Board of Fisheries*, [142] 881, [A. 162, N. 39, M. 123] 885;—*Board of Manufactures*;—*Highland Roads and Bridges*, 1027;—*Holyrood Park*, 1141;—*Compensation to Mr. Boyle*, 1141, 1388
Universities, c. Question (Mr. Layard), [140] 2043

See

Bankruptcy (Scotland) Bill
Commissioners of Supply (Scotland) Bill
Deeds (Scotland) Bill
Education (Scotland) Bill
Exchequer, Court of (Scotland) Bill
Joint Stock Bank (Scotland) Bill
Judicial Procedure, (Scotland) Bill
Leases, Registration of (Scotland) Bill
Marriage Law Amending Bill
Mercantile Law (Scotland) Amendment Bill
Municipal Reform (Scotland) Bill
Nuisances Removal (Scotland) Bill
Parochial Schools (Scotland) Bill
Paupers, Scotch and Irish, Removal Bill
Poor Law Amendment (Scotland) Bill
Procedure Before Justices (Scotland) Bill
Reformatory Schools (Scotland) Bill
Schools (Scotland) Bill
Voters, Registration of, (Scotland) Bill

SCOTT, Hon. F., Berwickshire

Joint-Stock Banks (Scotland), Com. [140] 698
Parochial Schools (Scotland), 2R. [141] 1586; [142] 896
Reformatory Schools (Scotland), 2R. [141] 18
Shipping, Local Charges on, Appointment of Com. [141] 681
Transportation, Com. moved for, [141] 387, 427

SCULLY, Mr. F., Tipperary

Shipping, Local charges on, Appointment of Com. [141] 686

SCULLY, Mr. V., Cork Co.

Address in Answer to the Speech [140] 88
Burial-Grounds (Ireland), 2R. [140] 494
Chancery, Court of (Ireland); (Incumbered Estates Court Abolition), Leave, [140] 213
Communication between England and Ireland, [140] 221, 222
Incumbered Estates (Ireland) Com. add. cl. [143] 490
Juvenile Offenders (Ireland), 2R. [140] 495
Museums, &c., Opening of, on Sunday, [140] 219
Pauper, Scotch and Irish, Removal, Leave, [141] 312
Shipping, Local Charges on, Appointment of Com. [141] 675, 690, 691
Tenants' Compensation (Ireland), [140] 89

Scutari, Monument at

l. Question (Earl of Harrington), [143] 493
c. (Supply) [142] 1050

Seamen, Distressed British—Supply,

c. [142] 1030

Seamen's, British, Hospital, Constantinople—Supply,

c. [142] 1045

Seamen's Savings Banks Bill,

c. 1R.* [142] 1401; 2R.* 1679; 3R.* 1807
l. 1R.* [142] 1890; 2R.* 1966; 3R.* [143] 1
Royal Assent [143] 383

Sebastopol, Clasp, The,

a. Question (Sir J. Pakington), [141] 1182; (Mr. H. Baillie) 1325

Sebastopol, Sunken Ships at,

l. Question (Earl of Hardwicke), [140] 978

Secondary Punishment—see Ticket-of-Leave System**Secret and Foreign Service—Supply,**

c. [141] 262

Secretaries of State,

c. Return moved for (Mr. Murrough), [141] 1105, 1247; Com. moved for (Mr. Murrough), [142] 620; Motion withdrawn, 621, —*Patents for the*, Question (Mr. Murrough), [143] 1426

Select Vestries Bill,

l. 1R.* [140] 1

Session, Review of the,

a. Notice (Mr. Disraeli), [143] 1107; Returns moved for, 1430

SEYMER, Mr. H. K., Dorsetshire

Church Rates Abolition, (No. 2), 2R. [140] 1027

Justices of the Peace Qualification, 2R. [140] 1441; Com. *cl.* 7, [141] 1108

Kars, Fall of, Res. Amend. [141] 1724

Smithfield Market, Site of, [143] 1081

Supply—St. James's Park, [142] 1569

SEYMOUR, Mr. H. D., (Secretary to the Board of Control)

Indian Budget, The, Com. Res. [143] 1165

Nawab of Surat Treaty, Rep. [142] 1659

Sombre, Mr. Dyce, Will of, [141] 173

SHAFTESBURY, Earl of

Advowsons, 2R. [143] 491

Burial-Ground—Blandford, [142] 953

Chimney Sweepers Act, [143] 807

Education, [141] 35, 40

Factories, 2R. 1871; Com. *cl.* 4, [142] 1893

London and Durham, Bishops of, Retirement, Com. [143] 954, 962

Parishes, Formation of, 2R. [143] 947; Com. *cl.* 9, 1091

Prisons, Inspector of, 20th Report, Address moved, [141] 123

Shaving on Sunday,

c. Question (Mr. Roebuck), [140] 1052; (Mr. Murrough), 2036

SHEE, Mr. Serjeant W., Kilkenny Co.

Burial Grounds (Ireland), 2R. [140] 494

County Courts Acts Amendment, Com. *cl.* 5, [143] 693

Dwellings for Labouring Classes (Ireland), Com. *add. cl.* [142] 1663

Education, Vice President of Committee of Council on, Com. *cl.* 1, [143] 1059

Hinds, Miss, Murder of, [142] 287

Kars, Fall of, Res. [141] 1775

Partnership Amendment, 2R. [140] 487

Supply—Agricultural Statistics, [142] 1113

Sheep, &c., Contagious Diseases Prevention Bill,

l. 1R.* [143] 1063; 2R.* 1176; 3R.* 1176

c. 1R.* [143] 1273; 2R.* 1273; 3R.* 1424

l. Royal Assent, [143] 1491

SHELLEY, Sir J. V., Westminster

Army Works Corps, [143] 1495, 1496

British Museum—Sunday Opening [140] 1060

Dwellings for Labouring Classes (Ireland), Com. *cl.* 2, [141] 1797

Estates, Leases and Sales of Settled, 2R. [143] 945

Guards, Entry of the, into London, [143] 265

Imperial Hotel Company, 2R. [140] 1700

Joint-Stock Banks, Leave, [141] 434; Com. 1470; [143] 1062

Judicial Bench (Ireland), Returns moved for, [140] 760, 764, 771, 805, 806

London and Durham, Bishops of, Retirement, 2R. [143] 1323; Com. *cl.* 1, 1371

Police, Metropolitan, Com. [140] 447; 3R. 473

St. James's Park, Com. moved for, [140] 1392

Statute Law Consolidation, Address moved, [141] 1468

SHELLEY, Sir J. V.—continued.

Supply—Royal Parks, Pleasure Grounds, &c. [141] 233;—Education (Ireland), 535, 543;—General Board of Health, 1373;—Science and Art Department, Marlborough House Removal, [142] 1130;—St. James's Park, 1569

Sherburn Hospital Bill,

l. 1R.* [142] 949; 2R.* 1219; 3R.* [143] 1007

Shipping, Local Charges on,

c. Com. moved for, (Mr. Lowe), [141] 210; Appointment of, Com. 674; Adj. moved (Mr. Horsfall), 686; [A. 67, N. 108, M. 41] 690, 867; Amend. (Mr. Vance), [o. q. A. 73, N. 94, M. 21] 868

Shipping, Local Dues on. Bill,

c. Leave [140] 152; 1R.* 178; [140] Postponement of, 2R. 261; . 2R. 1314; Amend. (Sir F. Thesiger), 1338; Adj. Debate, 1412; . Bill withdrawn, 1425; . Question (Mr. Lindsay), 1411; Mr. Mackinnon), 1952; (Sir F. Thesiger), 2112; (Mr. M. Gibson), 2190

SIBTHORP, Major G. T. W., Lincoln

Guards' Memorial, The, [142] 1228

Medals for the Army in the East, [141] 639, 640

Simpson's Crimean Sketches,

c. Question (Lord Elcho), [142] 1100

Slave Trade—Brazil,

l. Address moved (Earl of Malmesbury), [143] 1070

c. Question (Mr. B. Moore), [143] 1032

Slaves, Bounties on—Supply,

c. [142] 1027

Sleeping Statutes Bill,

c. 1R.* [141] 1702; 2R.* [142] 137; 3R.* 977

l. 1R.* [142] 1054;

2R. 1895; 3R.* [143] 490

Royal Assent, [143] 1064

Sligo Election Committee,

c. Observations (Mr. T. Duncombe), [142] 1091

Small Debts Imprisonment Act Amendment (Scotland) Bill,

c. 1R.* [142] 550; 2R.* 797; 3R.* 1161

l. 1R.* [142] 1219; 2R.* [143] 229; 3R.* 383

Royal Assent, [143] 710

SMITH, Rt. Hon. R. V. (President of the Board of Control), Northampton

Appellate Jurisdiction, [142] 2083

Billeting (Scotland), [141] 583

Dalhousie, Marquess of, Pension to, [142] 274

East India Company—French Inundations, [143] 264

Education, Vice President of Committee of Council on, Com. *cl.* 1, [143] 1059; 3R. 1216

SMITH, Rt. Hon. R. V.—*continued.*

India, Administration of Justice in, [142] 1410
 India, Communication with, [142] 551
 India, Revenues of, [141] 1210
 Indian Appeals, [143] 555
 Indian Army, [143] 1425
 Indian Budget, The, Com. [143] 1110; Res. 1121, 1170
 Indian Currency, [143] 556
 Indian Law Commission, [141] 1304
 Indian Law Expenses—"In Re Dyce Sombre," [140] 1410, 1954
 Kars, Fall of, Res. [141] 1819
 Nawab of Surat, [143] 676
 Nawab of Surat Treaty, Rep. [142] 1297, 1311, 1314, 1650; 3R. 1901
 Oude, Kingdom of, [140] 1225;—Annexation of the. Returns moved for, 1856
 Persia, Relations with, [141] 164, 169
 Roman Catholic Clergy in India, [143] 1385 1386
 Salt Tax (India), [141] 153; [143] 644
 Standing Orders, Res [143] 1106
 Supply—Stationery, Printing, &c., [141] 264
 Tanjore and Jodpore, Rajahs of, [141] 152, 153

SMITH, Mr. A., *Hertfordshire*

Reformatories, Government Allowance to, [142] 2078

SMITH, Mr. J. A., *Chichester*

Commissions, Candidates for, [142] 258

SMITH, Mr. J. B., *Stockport*

Police (Counties and Boroughs), 2R. [140] 2180

SMITH, Mr. M. T., *Wycombe (Chipping)*

Army Estimates, [140] 1748

Smith, Dr. *Southwood*

c. Question (Mr. Roebuck), [142] 595

Smithfield Market, *Site of.*

c. Question (Mr. K. Seymour), [143] 1031; (Visct. Raynham), 1490

Smoke Act, *Metropolitan, Amendment Bill.*

l. 1R.* [141] 1006; 2R.* [142] 177; 3R.* 576

c. 1R.* [142] 797; 2R.* 1085; 3R.* 2071

l. Royal Assent, [143] 1491

SMOLLETT, Mr. A., *Dumbartonshire*

Voters, Registration of (Scotland), Com. [142] 1683

SMYTH, Col. J. G., *York*

Police (Counties and Boroughs), 2R. [140] 2160

SOLICITOR GENERAL, The, (Sir R. BETHELL) *Aylesbury*

Appellate Jurisdiction, 2R. [143] 479; Com. 612

Charitable Uses, 3R. [140] 1426

Charities, 2R. [143] 967

SOLICITOR GENERAL, The—*cont.*

Contractors' Disqualification Removal, Leave, [140] 680

Dwellings for Labouring Classes (Ireland), 2R. [140] 1859

Ecclesiastical Courts Jurisdiction, Leave, [140] 398

Ecclesiastical Courts, Reform of the, [142] 1227

Estates, Leases and Sales of Settled, 2R. [143] 945; Com. *add. cl.* 1051, 1055

Fire Insurances, Com. *cl.* 2, [142] 396, 398

Joint-Stock Companies, Com. *cl.* 37, [142] 644; *cl.* 58, 649

Joint-Stock Companies Winding-up Acts Amendment, 2R. [142] 1768

Judges and Chancellors, Leave, [142] 452, 455, 460

Judgments Execution, Leave, [140] 183

London and Durham, Bishops of, Retirement, Com. *cl.* 1, [143] 1371, 1379, 1382; *cl.* 5, 1415

Married Women, Rights of, [142] 1279

Nawab of Surat Treaty, 3R. [142] 1904

Statute Law, Consolidation of the, Leave, [140] 756

Supply—Statute Law Commission, [142] 878

United States, Relations with the, [143] 170

Wills and Administrations, Leave, [141] 219, 220, 1529; 2R. [142] 1995, 2023, 2024, 2027, 2028, 2033, 2042; [143] 266; Com. 300

Sombre, Mr. Dyce—*Will of.*

c. Question (Mr. Otway), [141] 172; Reply (Sir J. Hogg), 177;—see *India, Law Expenses*

SOMERSET, Duke of

Army—Command in Chief, [143] 812

London and Durham, Bishops of, Retirement, 3R. [143] 1097

Militia, The, [143] 630

Parishes, Formation of, Com. *cl.* 9, Amend. [143] 1002, 1093

Parliament, Houses of—The Fire Brigade, [141] 1141, 1691

SOMERSET, Col. E. A., *Monmouthshire*

Army Estimates, [140] 1263, 2077

SOMERVILLE, Rt. Hon. Sir W. M., *Canterbury*

Dwellings for Labouring Classes (Ireland), 2R. [140] 1858; Com. [141] 1786, 1788; *cl.* 1, 1793; *cl.* 2, 1794, 1795, 1796, 1797, 1798;

cl. 4, [142] 1661; *add. cl.* 1662, 1664; 3R. 2158

Dwellings for Labouring Classes (Ireland), (No. 2), Leave, [143] 1063

Nawab of Surat Treaty, Rep. [142] 1649

Somner, *Celestina, Case of.*

c. Question (Mr. Warren), [142] 428

Sound Dues, *The.*

c. Question (Mr. M. Gibson), [141] 180; (Mr. Mitchell), [142] 554

South Wales Highway Act.

c. Question (Sir G. Tyler), [143] 1033

South Wales Lunatic Asylum,

c. Question (Mr. Philipps), [141] 179

Spain. Affairs of.

c. Question (Mr. Murrough), [143] 1884

Spain, Postal Treaty with.c. Question (Mr. Oliveira), [140] 2111 — see *Customs Duties***Spanish Bonds**

c. Motion (Sir J. FitzGerald), [143] 1234 ; Motion withdrawn, 1238

**SPEAKER, The (Rt. Hon. C. S. LEFEVRE),
Hampshire, N.**

Agricultural Statistics, 2R. [142] 1727

Appellate Jurisdiction, [143] 509

Army Scientific Corps, [141] 1449

Ascension Day—Adjournment, [141] 1786

Beatson, General, [143] 974

Billeting (Scotland), [141] 589

Bills, Public and Private, [142] 1407

Chancery, Court of (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 970

China Sens. Operations in the, [140] 453

Commissions of Deceased Officers, Address moved, [142] 1318

Consolidated Fund Appropriation, Com. [143] 560, 561

County Courts Acts' Amendment, 3R. cl. 10, [143] 1207, 1208

Crimean Commission Report, [140] 1407, 1708

Danubian Principalities, [143] 1040

Dublin Metropolitan Police, 2R. [142] 1215

Education, National, Com. [141] 780

Fisheries (Ireland), Com. moved for, [142] 1297

German Legion, The, [143] 1109, 1110

Greece, State of, [142] 271

Indian Budget, The, Com. [143] 1120

Joint-Stock Companies, Leave, [140] 110

Judicial Bench (Ireland), Returns moved for, [140] 764

London and Durham, Bishops of, Retirement, Preamble, [143] 1430

Medical Profession, Com. [141] 762

Metropolitan Management, [140] 2037, 2038

Morning Sitings, [142] 1464

Partnership Amendment, Leave, [140] 110

Peace, Celebration of, [141] 1541

Peace, Treaty of, Her Majesty's Answer, [142] 215

Perth and Melfort's, Earl of, Compensation, Rep. [142] 1318

Reformatories for Penitent Females, [143] 935

Rolls, Master of the, and the Attorney General for Ireland, [143] 738, 739

Rules of the House, [143] 642, 643

Sadleir, James, and the Tipperary Bank, [143] 399

Sadleir, James, Expulsion of, [143] 1396

Sardinian Loan, Message from the Queen, [142] 1326

Spirit Trade (Ireland), 2R. [142] 1323

Supply—British Museum, [141] 1352

Surat, The Nawab of, [140] 980

Tenant Right (Ireland), [142] 1026

Williams, Sir W. F., Message from the Queen, [142] 215

Wills and Administration, Com. [143] 298

[cont.]

Specialty and Simple Contract Debts Bill,
c. Leave, [141] 428 ; 1R.* 432**Spirit Trade (Ireland) Bill,**

c. 1R.* [141] 1324 ; 2R. 1320 ; Bill withdrawn, [142] 1324

Spithead, Naval Review at.

l. Observations (Lord Ravensworth), [141] 1384 ; (Earl Granville), 1473

c. Question (Col. French), [141] 1182 ; Observations (Mr. Stafford), 1395 ; (Mr. Lindsay), 1541

SPOONER, Mr. R., Warwickshire, N.

Army Estimates, [140] 1264, 1265, 2061, 2062, 2092 ; Amend [141] 204 ; [142] 1692, 1693, 1694, 1697

Bankers' Compositions, 2R. [141] 1045

Billeting (Scotland), [141] 578

Business, Public, Amend. [141] 174

Charities, 2R. [143] 966

Church Building Commission, 3R. [143] 337

County Courts Acts' Amendment, Com. cl. 72 (E) [143] 707

Dissenters' Marriages, Com. cl. 2, [142] 940

Estimates, Appropriation of the, [141] 183

German Legion, The, [143] 1109

Greece, State of, [142] 272

Income and Land Taxes, 3R. [143] 1028

Income and Property Tax, [141] 655

Joint-Stock Companies, Com. Amend. [142] 633, 634, 635 ; cl. 19, 638 ; cl. 29, 641 ; 3R. Adj. moved, 897

Joint-Stock Companies Winding-up Acts, Amendment, 2R. [142] 1769

London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1411

Malt, Drawback on, [141] 221

Maynooth College, Com. [141] 1049, 1086, 1099 ; Leave, 1102 ; 2R. [142] 1906, 1960, 1965, 2046

Medical Profession, 2R. [140] 1013

Mercantile Law Amendment, 3R. [143] 1118

Monetary System, Com. moved for, [140] 1487, 1534

National Gallery Site, 2R. [143] 13

National Gallery, Site of the, Address moved, [142] 2127

Navy Estimates, [140] 584, 585

Nawab of Surat Treaty, Rep. [142] 1315

Partnership Amendment, 2R. [140] 260, 473

Partnership Amendment (No. 2), Com. [143] 339 ; cl. 3, 366 ; Amend. 368, 370 ; 3R. cl. 3, 802

Police (Counties and Boroughs), Com. add. cl. [142] 607

Scientific and Literary Societies, Com. cl. 2, [142] 939

Supply—Customs Department, [140] 861 :—

[141] Royal Parks, Pleasure Grounds, &c. 231 ; —New Houses of Parliament, 239, 243, 245, 246 ; —Public Buildings (Ireland), 249 ; —Mint, 252 ; —Education (Ireland), 541 ; —Theological Professors (Belfast), 597, 599 ; —North American Provinces, 1002 ; —Emigration, 1010, 1012 ; —Superannuation Allowances, 1039

[142] Charity Commission, 862 ; —Board of Fisheries (Scotland), 882 ; —Embankment, &c., Vauxhall and Battersca Bridge, 1036 ; —Embassy Houses Abroad, 1043 ; —Agricultural

SPOONER, Mr. R.—continued.

142] Statistics, 1112;—British Historical Portrait Gallery, 1115, 1120, 1121, 1123;—Science and Art Department, Marlborough House Removal, 1126, 1129, 1133—St. James's Park, 1138
United States, Relations with the, [143] 15, 140

Spurn Point—Supply,
c. [142] 1045**STAFFORD, Mr. A. S. O. Northamptonshire, N.**

Address in Answer to the Speech, [140] 82
Army Estimates, [140] 1750, 1753, 2056, 2070, 2072, 2073; [141] 207; [142] 1550, 1697, 1700, 1713
Army Medical Department, [141] 169
Cambridge University, Com. cl. 4, Amend. [142] 843; cl. 27, 1198; Rep. cl. 27, 1749
Cambridge University and Town, 2R. [140] 832
Civil Service Superannuation Fund, Com. [143] 1045
County Court Acts Amendment, 3R. add. cl. [143] 1204
Education, National, [140] 2012
Established Church (Ireland), [142] 712, 714; Com. moved for, 758
Grand Juries (Ireland), (No. 2), 2R. [143] 1275
Justices of the Peace Qualification, Com. cl. 7, [141] 1110
National Gallery Site, 2R. [142] 1394
Naval Review, The, [141] 1395
St. James's Park, [142] 1090
Supply, [140] 1672;—Education (Ireland), [141] 535;—National Vaccine Establishment, 1040;—Inspectors of Corn Returns, [142] 1028;—Monument at Scutari, 1051;—Agricultural Statistics, 1112;—Civil Contingencies, 1356;—St. James's Park, 1414;—British Embassy Houses abroad [143] 275
Tenant Right (Ireland), [141] 1343; [142] 978
Vote of Thanks to the Army, Navy, &c., [142] 232
Widows of Officers of Transports, [142] 1579
Williams, Sir W. F., Queen's Message, Address moved, [142] 292

Stamp Duties Bill,

c. Leave, [143] 617; 1R.* 618; 2R.* 733; Com. cl. 1, Amend. (Mr. Vance), 943; Amend. neg. 944; add. cl. (Chancellor of the Exchequer), 944; 3R.* 1027
I. 1R.* [143] 1006; 2R.* 1063; 3R.* 1347
Royal Assent, [143] 1491

Standing Orders,

c. Res. (Col. W. Patten), [143] 1103; Amend. (Sir E. Perry), 1105; Amend. withdrawn, 1107

STANHOPE, Earl

Abjuration, Oath of, 2R. Amend. [142] 1785
Peerages for Life, Com. [140] 1180
Portraits, National Gallery of, [140] 1770, 1788
St. James's Park, [142] 587
Tickets of Leave—Secondary Punishment, Address moved, [141] 1149, 1164, 1179, 1470
Transportation, Com. moved for, [142] 587

STANHOPE, Mr. J. B., Lincolnshire, N.

County Courts Acts Amendment, Com. cl. 72 (E) [143] 705
Dissenters' Marriages, Com. cl. 4, [142] 946
Justices of the Peace Qualification, Com. cl. 14, [142] 480

STANLEY, Lord, King's Lynn

Army, Sale of Commissions in the, Com. moved for, [140] 1821
*British Museum—Sunday Opening, [140] 1074
County Court Judges, Salaries of, Address moved, [141] 288
Factories, Leave, [140] 1673; 2R. [141] 872; Com. cl. 4, [142] 562; add. cl. 565
Fire Insurances, Com. 390; cl. 2, [142] 396
India, Communication with, [142] 551
Married Women, Rights of, [142] 1277
Science, Advancement of, Com. moved for, [142] 1270
Statute Law, Consolidation of the, Leave, [140] 738

STANLEY of ALDERLEY, Lord (President of the Board of Trade),

Agricultural Statistics, 2R. [140] 2207, 2214, 2221; Com. [141] 447, 450, 455, 458, 460, 461; cl. 1, 462; cl. 2, 463; cl. 7, 464, 465; cl. 12, 465; 3R. 631
Annuities, Redemption, 3R. [143] 11, 12
Arctic Expeditions, Further, [143] 1013
Australian Mail Packet Service, [143] 1478
Business of the House, [143] 1180
Coast-Guard Service, Com. [143] 1193, 1199, 1200
Divorce and Matrimonial Causes, Rep. Amend. [142] 1987
Exchequer Bills Funding, 2R. [140] 1947
Fire Insurances, 2R. [142] 672
Joint-Stock Companies, 2R. [142] 1477; Com. 1891; cl. 18, 1893
Limited Liability, Returns moved for, [141] 138
Mercantile Law Amendment, 3R. [142] 181; Re-com. 1159
Parliament, Houses of—The Fire Brigade, [141] 964, 1140, 1142, 1691
Paupers, Settlement and Removal of, [140] 217, 218
Sailing Vessels, Regulations for, [142] 850, 851
Unseaworthy Vessels, [140] 710, 715

STANLEY, Hon. W. O., Chester

Crimean Commission Report, [140] 1480
Military Rewards, [141] 1530
Naval Review, The, [141] 1396
Suffragan Bishops, [142] 592

Stationery, Printing, &c.—Supply,

c. [141] 262

Statute Law Commission,

c. Question (Mr. L. King), [141] 871, 1181

Statute Law Commission—Supply,

c. [142] 865; [A. 70, N. 54, M. 16] 880

Statute Law, Consolidation of the,

c. Leave, [140] 718 ;

Question (Mr. L. King), [143] 557

Statute Law, Consolidation of the,c. Address moved (Mr. Hadfield), [141] 1467 ;
Motion withdrawn, 1468**Statute Law, Consolidation of the, Bills,**

l. 1R. [143] 1084

Statutes at Large,c. Motion Mr. L. King), [140] 986 ; Amend.
(Mr. R. Phillimore), 998 ; Amend. neg. 999,
[m. q. A. 63, N. 164, M. 101] 999**Statutes not in use Repeal Bill — see
Sleeping Statutes Bill,****STEEL, Mr. J., Cockermouth,**Joint-Stock Companies, Com. cl. 58, [142]
650Police (Counties and Boroughs), Com. cl. 6,
[142] 807**STEPHENSON, Mr. R., Whitby**

Army Estimates, [142] 1720

STEWART, Sir M. R. S., RenfrewshireEvictions (Ireland)—Case of Mr. Pollok, Com.
moved for, [141] 1717 ; [142] 697Parochial Schools (Scotland), 3R. Amend.
[143] 372**Stipendiary Justices (West Indies and
Mauritius) Supply,**

c. [141] 1009

STIRLING, Mr. W., Perthshire

Coast-Guard, The, [142] 258

Education (Scotland), Leave [141] 674

Parochial Schools (Scotland), 2R. [142] 896

Supply—Royal Parks, Pleasure Grounds, &c.
[141] 238 ;—National Gallery, 617**Stock-in-Trade Exemption Bill,**

c. 1R.* [142] 1297 ; 2R.* 1493 ; 3R.* 1679

l. 1R.* [142] 1771 ; 2R.* [143] 1 ; 3R.* 229

Royal Assent, [143] 383

Stoke Poges Hospital Bill,l. 1R.* [142] 949 ; 2R.* 1219 ; 3R.* [143]
812

c. 1R.* [143] 1027 ; 2R.* 1103 ; 3R.* 1424

l. Royal Assent, [143] 1491

STRACEY, Sir H. J., Norfolk, E.Police (Counties and Boroughs), Leave, [140]
243 ; 2R. 2153 ; Com. add. cl. [142] 606,
610**STRADBROKE, Earl of**Agricultural Statistics, Com. [141] 461 ; cl. 7,
465**STRICKLAND, Sir G., Preston**Police (Counties and Boroughs), Com. cl. 7,
[141] 1935**STRUTT, Rt. Hon. E., Nottingham**County Courts Acts Amendment, Com. [143]
692Scientific and Literary Societies, Com. [143]
227**STUART, Capt. W., Bedford**

Army Estimates [140] 2081

Crimea, Sunday Reviews in the, [141] 565

Militia and the Foreign Legions, [142] 800

Sunday Labour in Dockyards, [141] 872

Supply—Charity Commission, [142] 800 ;—
Civil Contingencies, 1386**Suffragan Bishops.**

c. Question (Marquess of Blandford), [142] 589

SULLIVAN, Mr. M., Kilkenny CityMinisters' Money (Ireland), Com. moved for,
[140] 1008**Summary Jurisdiction Bill,**

c. 1R.* [140] 716

Sunday, Bands in the Parks on,c. Question (Marquess of Blandford), [141]
1702 ; (Lord R. Grosvenor), 1911 ; (Mr. T.
Chambers), [142] 259 ; (Mr. Otway), 325 ;
—see *Scotch Members and the Government***Sunday Labour in Dockyards,**

c. Question (Captain Stuart), [141] 872

Sunday Reviews in the Crimea,

c. Question (Captain Stuart), [141] 565

Superannuation Allowances—Supply,

c. [141] 1032

Superannuations and Pensions,

c. Question (Mr. W. Williams), [140] 972

Supply.c. [140] 152, 259, 263, 1313, 1670 ; [141] 185,
221, 333, 523, 589, 622, 1001, 1241, 1344*Academies, Irish*, [141] 591*Africa, West Coast, Civil Establishments*,
[141] 1009*Agricultural Statistics*, [142] 1109*Aldershot, Constabulary Police at*, [142] 1030,
[A. 131, N. 14, M. 117] 1034*Army Estimates*, [140] 1221, 1250, 1726, 2054 ;
[141] 185 ; Amend. (Mr. Layard), 195, [A. 9,
N. 82, M. 73] 200 ; Amend. (Mr. Spooner),
204, [A. 15, N. 89, M. 74] 208 ; [142]
1583, 1691 ; Amend. (Mr. E. Ellice), 1718,
[A. 69, N. 160, M. 91] 1726*Audit of Public Accounts*, [141] 255*Australian Expedition*, [142] 1050*Battersea Park*, [142] 1035*Bermudas*, [141] 1001*Boyle, Mr., Compensation to*, [142] 114 ; Vote
withdrawn, 1142, 1388*British Embassy Houses Abroad*, [143] 272 ;
—see *Embassy Houses Abroad**British Historical Portrait Gallery*, [142] 1113,
[A. 97, N. 28, M. 69] 1124*British Museum*, [141] 600, 1344*British Seamen's Hospital, Constantinople*,
[142] 1045

[cont.]

Supply—continued.

Buckingham Palace, [141] 228
Buildings, Public (Ireland), [141] 248
Burial-Grounds, Inspection of, [142] 1034
Cambridge University Professors, [142] 1046
Canada, Indian Department, [141] 1002
Cape of Good Hope, [142] 1108
Captured Negroes, [141] 1013
Carisbrooke Castle, [142] 1038
Census (Ireland), [142] 1050
Charitable Allowances (Ireland), [141] 1247
Charity Commission, [142] 856; Amend. (Mr. W. Williams), 858, [A. 40, N. 146, M. 106] 865
Civil Contingencies, [142] 1328; Amend. (Sir F. Baring), 1331; Amend. withdrawn, 1343
Civil Service Commissioners, [142] 880
Civil Service Estimates, [140] 854
Coast-Guard, [140] 862
Colonial Office, [141] 251
Commissions, Mixed, [141] 1013
Consular Establishments Abroad, [141] 1014
Convicts, [141] 523
Copyhold Enclosure and Tithe Commission, [141] 260, 261
Corn Returns, Inspectors of, [142] 1028
Customs Department, [140] 859
Designs, Registration of, [142] 1027
Ecclesiastical Commissioners, [A. 166, N. 66, M. 100] [142] 856
Education, [142] 1343; Amend. (Mr. Barnes), 1364; Amend. neg. 1388
Education Commissioners (Ireland), [141] 589
Education, Public, [141] 523
Education (Ireland), [141] 525; Amend. (Mr. W. Williams), 527; Amend. (Mr. Vansittart), 541; Amend. withdrawn, 542, [A. 38, N. 144, M. 106] *ib.*; Amend. (Mr. Mowbray), [A. 41, N. 126, M. 85] 543
Embankment, &c. between Vauxhall and Battersea Bridge, [142] 1036, [A. 109, N. 66, M. 43] 1038
Embassies and Missions Abroad, [140] 1028
Embassy Houses Abroad, [142] 1038; Amend. (Mr. Whiteside), 1039; Amend. and Motion withdrawn, 1045; [143] 272
Emigration, [141] 1010
Exchequer Bills, [141] 543
Exchequer, Comptroller of the, [141] 257
Exchequer, Remembrancer of (Scotland) [141] 253
Factories, Inspectors of, [141] 252
Falkland Islands, [141] 1009
Fisheries, Board of (Scotland), [142] 881, [A. 162, N. 39, M. 123] 885
Foreign Office, [141] 251
Friendly Societies, Registrar of, [141] 262
Gallery of Arts, Dublin, [142] 1050
Geographical Society, [141] 620
Harbours, [141] 248, 249
Health, General Board of, [141] 1367; Amend. (Mr. Michell), 1368; Motion neg. 1374; Amend. (Mr. Miles), [A. 63, N. 154, M. 91] *ib.*
Heligoland, [141] 1009
Highland Roads and Bridges, [142] 1027
Holyrood Park, [142] 1141
Home Office, [141] 251
Hospitals, &c. (Ireland), [141] 254, 1042, 1043; Amend. (Mr. Alex. Hastie), [A. 32, N. 187, M. 155] 1044; 2nd Amend. [A. 33, N. 180, M. 147] *ib.*

[cont.]

Supply—continued.

Incumbered Estates Commission (Ireland), [142] 1046; Amend. (Col. Dunne), 1048; Motion withdrawn, 1050
Inland Revenue Department, [140] 863
Joint-Stock Companies Registration, [142] 1027
Law Courts and Officers, [141] 269
Law Courts and Officers (Ireland), [141] 269, 270
Law Courts and Officers (Scotland), [141] 269
Laws and Institutes (Ireland), [142] 1027
Lighthouses Abroad, [142] 1050
Lord Lieutenant of Ireland, [141] 254
Lunacy, Commissioners of, [141] 262
Madrid, British Protestant Cemetery at, [143] 276
Magnetic Observations, [141] 620
Manufactures, Board of (Scotland), [142] 1027
Medal Services, [140] 870
Menai Straits, [142] 1046
Merchant Seamen's Fund Pensions, [142] 1027
Militia, Disembodied, [143] 277
Mint, The, [141] 252
Miscellaneous Allowances, [141] 1042
National Debt Office, [141] 262
National Gallery, [141] 1601; Amend. (Mr. Otway), 609, [A. 72, N. 152, M. 86] 620
Navy, Estimates, [140] 524; [142] 1417
Nonconforming, &c. Ministers (Ireland), [141] 1241; Amend. (Mr. Pellatt), [A. 60, N. 230, M. 170] 1243; Amend. (Mr. Hadfield), [A. 39, N. 214, M. 175] 1244; Amend. (Mr. Ker-shaw), [A. 40, N. 198, M. 158] 1246; [*v. p.* A. 16, N. 211, M. 195] *ib.*; Amend. (Mr. Barnes), *ib.*; Motion, neg. 1247
North American Provinces, [141] 1001
Orange River Territory, [142] 1052
Palaces, Royal, and Public Buildings, [141] 221
Parks, Royal, &c. [141] 228; Amend. (Sir H. Willoughby), 229; Amend. (Mr. Bowyer), 231; [A. 35, N. 119, M. 84] 233; 2nd Amend. [A. 19, N. 83, M. 64] 237; Amend. (Mr. Blackburn), 237
Parliament, New Houses of, [141] 239, 249
Patent Law Amendment, [142] 881
Paymaster General, [141] 251
Paymaster of Civil Services (Ireland), [141] 254
Police, Metropolitan, [141] 269
Polish, &c. Refugees, [141] 1042
Poor Laws, [141] 252
Post Office Services, [140] 865
Postage of Letters, [141] 269
Prisons and Prisoners, [141] 270, 523, 622
Privy Council, [141] 251
Privy Seal, [141] 251
Process Servers (Ireland), [142] 1027
Prosecutions, [141] 269
Public Accounts Commissioners, [142] 1063
Quarantine Expenses, [142] 1030
Queen's Colleges (Ireland), [141] 591
Queen's University (Ireland), [141] 590
Reciprocity Treaties of, [142] 1028
Records, Public, [141] 252
Records, Repository for, [142] 1038
Refuge for the Destitute, [141] 1042
Register Offices, [141] 261, 269
Revenue Police, [140] 865
Revising Barristers, [142] 1030
Roads, County (South Wales), Superintendent of, [141] 262

[cont.]

Supply—continued.

- Royal Society*, Amend. (Mr. Blackburn), [141] 620; Amend withdrawn, 622
- St. Helena*, [141] 1009
- St. James's Park*, [142] 1133; [A. 70, N. 192, M. 122] 1141; 2nd Res. 1411, [A. 182, N. 95, M. 87] 1417; Rep. 1560, [A. 119, N. 93, M. 26] 1569
- Seamen, Distressed British, abroad*, [142] 1030
- Secret and Foreign Services*, [141] 262
- Secretary, Chief (Ireland)*, [141] 254
- Science and Art, Department of*, [141] 523
- Science and Art Department, Marlborough House Removal*, [142] 1124
- Scottish Universities*, [141] 589
- Scutari, Monument at*, [142] 1059
- Slaves, Bounties on*, [142] 1027
- Spurn Point*, [142] 1045
- Stationery, Printing, &c.* [141] 262
- Statute Law Commission*, [142] 865, [A. 70, N. 54, M. 16] 889
- Stipendiary Justices (West Indies, Mauritius)*, [141] 1009
- Superannuation Allowances*, [141] 1032
- Temporary Commissions*, Amend. (Mr. Blackburn), [142] 880; Motion neg. 881
- Theological Professors (Belfast)*, [141] 591; Amend. (Mr. Heyworth), 592, [A. 31, N. 85, M. 54] 598; Amend. (Mr. Crossley), *ib.*; Amend. withdrawn, 599; Amend. (Mr. Spooner), [A. 42, N. 88, M. 48] 600; Amend. (Mr. Cheetham), [A. 36, N. 108, M. 72.] *ib.*
- Treasury*, [141] 251, 269
- Treasury Commissariat Chest Transactions*, [142] 1108
- Toulonese and other Emigrants*, [141] 1040
- University of London*, [141] 589
- Vaccine Establishment, National*, [141] 1040
- West India Islands Relief Commission*, [141] 262
- West Indies, Governors*, [141] 1003; Amend. (Mr. W. Williams), 1008, [A. 3, N. 269, M. 268] 1009
- Windsor Improvements*, [142] 1038
- Woods, Forests, and Land Revenues*, [141] 252
- Works and Public Buildings*, [141] 251
- Works, Public (Ireland)*, [141] 254
- Works, Public, Loan Commission*, [141] 262
- Survey of Great Britain, &c. Bill*,
c. 1R.* [142] 1326; 2R.* 1493; 3R.* 1649
l. 1R.* [142] 1667; 2R.* [143] 1; 3R.* 306
Royal Assent, [143] 1064
- Talbot v. Talbot, Case of*,
c. Papers moved for (Mr. J. G. Phillimore), [140] 1544; Motion neg. 1563
- Tasmania, Governor of*,
c. Question (Mr. T. Duncombe), [140] 1311
- TAYLOR, Col. T. E., Dublin Co.**
Army Estimates, [140] 1286
Dublin Metropolitan Police, 2R. Adj. moved, [142] 1218
- Tea Duties*,
c. Com. moved for (Mr. Macartney,) [140] 1851; Motion neg. 1854
- Teesdale, Colonel*,
c. Question (Mr. Oliveira), [143] 118

Temporary Commissions—Supply,

- c. Amend. (Mr. Blackburn), [142] 880; Motion neg. 881

Tenant Right (Ireland) Bill,

- a. Leave, [140] 1009; 1R.* 1012;
2R. [142] 922, [A. 88, N. 59, M. 29] 938;
Question (Mr. Stafford), [142] 978; (Mr. G. H. Moore), 1023;
Com. [143] 530; Order discharged, 536

Tenants' Compensation (Ireland),

- a. Question (Mr. V. Scully), [140] 89

"Termagant," The.

- c. Question, (Adm. Walcott), [143] 402

Testamentary and Matrimonial Jurisdiction Bill,

- c. 1R.* [141] 1593

Thanksgiving, Day of.

- l. Order, [141] 1786, 1946; Thanks to the Bishop of Bath and Wells for Sermon, 1947
c. Observations (Mr. Byng), [141] 1534; Notice (Viscount Palmerston), 1594, 1947; Thanks to the Chaplain for Sermon, 2037

THESSIGER, Sir F., Stamford

- Abjuration, Oath of, [140] 1220; 2R., Amend. [141] 717, 722, 1909; Com. cl. 1, Amend. [142] 595, 599; cl. 2, 602; 3R. Amend. 1165
Grand Jury Assessment (Ireland), Com. cl. 6, Amend. [142] 616, 617; *add. cl.* 619
Judicial Bench (Ireland), Returns moved for, [140] 764, 792, 793
Shipping, Local Dues on, 2R. Amend. [140] 1314, 1320, 1953, 2112, 2113
United States, Relations with the, [143] 54, 106, 176

THOMPSON, Mr. G., Aberdeen

- Aberdeen Universities, [142] 1494
Bishops (Scotland,) [143] 1488

Thompson, Capt., Death of,

- l. Observations (Earl of Malmesbury), [142] 1676

THORNEY, Mr. T., Wolverhampton

- Ascension-Day—Adjournment, [141] 1786
Billeting (Scotland), [141] 585
Crown Lands and Church Extension, [143] 264
Custom House Bonds—The Peace, [141] 564
Dissenters' Marriages, Com. cl. 4, [142] 942
Education, Vice President of Committee of Council on, Com. cl. 1, [143] 1058
Statute Law Consolidation, Address moved, [141] 1467

Ticket-of-Leave System,

- l. Returns moved for (Viscount Dungannon), [140] 1401;
Address moved (Marquess of Salisbury), [141] 1145; Motion withdrawn, 1179; Observations (Earl Stanhope), 1470;
Motion (Viscount Dungannon), [142] 254; Motion withdrawn, 258
c. Question (Mr. Wise), [140] 150

TITE, Mr. W., Bath

- Army Estimates, [142] 1718
 Bank Charter, [143] 1040
 Civil Service, Admissions to the, Com. moved for, [141] 1432; [143] 529
 Corrupt Practices Prevention, Com. [143] 986
 Fire Insurances, 2R. [141] 1378; Com. [142] 391
 Mortars, Defective, [141] 1341
 National Gallery, Site of the, Address moved, [142] 2121
 Science, Advancement of, Com. moved for, [142] 1265, 1268
 Scientific and Literary Society, Com. [143] 227
 Supply—Royal Society, [141] 621;—British Museum, 1359;—St. James's Park, [142] 1138, 1413, 1564

Tithe Commutation Rent Charge Bill,

- c. Leave, [140] 1850; 1R.* 1851;
 2R. [142] 138;
 Com. [143] 811; Order Discharged, 812

Title Deeds, Registration of

- l. Question (Lord Lyndhurst), [143] 1064

TOLLEMACHE, Mr. J., Cheshire, S.

- Shipping, Local Dues on, 2R. [140] 1366
 Vaccination, Com. [143] 553

Toulonese and other Emigrants—Supply,

- c. [141] 1040

TOWNSHEND, Marquess

- Coast-Guard Service, Com. [143] 1199

Tralee and Killarney Savings Banks,

- c. Com. moved for (Capt. D. O'Connell), [142] 772; Amend. (Mr. Vance), [A. 84, N. 9, M. 75] 776; [m. q. A. 39, N. 54, M. 15] *ib.*

Transportation,

- l. Com. moved for (Earl Stanhope), [142] 587
 c. Com. moved for (Mr. F. Scott), [141] 887; Amend. (Sir G. Grey), 411; Motion (Lord Naas), 869

Treason and Offences against the State, Bill,

- l. 1R. [143] 1089

Treasury—Supply,

- c. [141] 251, 269

Treasury Commissariat Chest Transactions—Supply,

- c. [142] 1108

Treaties, Secret,

- c. Question (Marquess of Granby), [142] 429

TROLLOPE, Rt. Hon. Sir J., Lincolnshire, S.

- Agricultural Statistics, 2R. [142] 1770
 Army Estimates, [142] 1552
 Bands in the Parks on Sundays, [141] 1912
 [cont.]

TROLLOPE, Rt. Hon. Sir J.—cont.

- Justices of the Peace Qualification, Com. *cl.* 7, [141] 1111; [142] 477
 Navy Estimates, [142] 1458
 Police (Counties and Boroughs), Com. *cl.* 6, [142] 295
 Poor Law Amendment (No. 2), 2R. [142] 2043; [143] 260
 Poor; Medical Officers for the, [142] 1493
 Supply—Charity Commission, [142] 858, 863; —St. James's Park, 1414
 Whitsuntide Recess, [141] 2033, 2035

Truro, Lord, Library of the late,

- l. Observations (Marquess of Lansdowne), [141] 127; (Lord Chancellor), 628

Trust Property, Criminal Appropriation of,

- c. Leave, [141] 432

Turkey,

- Conferences at Constantinople. c. Question (Mr. Layard), [140] 1611
 Edicts of the Sultan, c. Question (Mr. Pellatt), [140] 833
 Roads, State of the, c. Question (Mr. W. Ewart), [140] 1409
 Slavery in, c. Question, (Mr. Biggs), [140] 1575
 The Loan, c. Question (Mr. Oliveira), [141] 320
 The Tariff, c. Question (Mr. Wise), [141] 2034; —see *Crimea, The—Russia*

Turkish Contingent—English Officers,

- c. Question (Mr. Adderley), [142] 555

Turnpike Acts Continuance Bill,

- c. 1R.* [143] 12; 2R.* 113; 3R.* 252
 l. 1R.* [143] 306; 2R.* 490; 3R.* 619
 Royal Assent [143] 710

Turnpike Acts Continuance (Ireland) Bill,

- c. 1R.* [143] 398; 2R.* 525; 3R.* 641
 l. 1R.* [143] 710; 2R.* 946; 3R.* 1064
 Royal Assent, [143] 1491

Turnpike Trusts Arrangements Bill,

- c. 1R.* [140] 716; 2R.* 914; 3R.* 1218
 l. 1R.* [140] 1289;
 2R. [140] 1447; 3R.* 2033;
 Royal Assent, [141] 870

Türr, Colonel—The Alien Act,

- c. Question (Mr. T. Duncombe), [140] 90

TYLER, Rear-Adm. Sir G., Glamorganshire

- Army Estimates, [140] 2057, 2082; [141] 194, 203, 209
 Coast-Guard Service, Com. *cl.* 4, [143] 999
 Navy Estimates, [142] 1436
 Navy, Manning and Equipment of the, [142] 1086
 South Wales Highway Act, [143] 1033

TYRELL, Sir J. T., Essex, N.

- Supply—Agricultural Statistics, [142] 1111

Union-House Boys and the Navy,

- c. Question (Col. Harcourt), [140] 2014; [141] 884

United States, Relations with the,

- l.* Question (Earl of Hardwicke), [142] 949 ; (Earl of Carnarvon), 1155 ; (Earl of Derby), 1397, 1472
- c.* Question (Mr. Cobden), [140] 221, 462 ; Motion (Mr. Roebuck), 837 ; Motion withdrawn, 854 ; Question (Viscount Goderich), [141] 473 ;—(*Enlistment*), Question (Mr. H. Baille), 999 ; [143] 266 ; (Sir Bulwer Lytton), [141] 2033 ;
- [142] 1089 ; (Mr. Disraeli), 979, 1403 ; (Major Reed), 1163, 1660 ; Observations (Lord J. Russell), 1499 ; Question (Mr. Gladstone), 1737 ; (Mr. G. H. Moore), 2071, 2093 ;
- [143] Motion (Mr. G. H. Moore), 14 ; Adj. moved (Sir J. Walsh), [A. 110, N. 220, M. 110] 107 ; Adj. moved (Mr. M. Gibson), 109 ; Adj. Debate, 120 ; Adj. moved (Mr. Bentinck), 202 ; Motion neg. 203, [A. 80, N. 274, M. 194] *ib.* ;
- Question (Mr. M. Gibson), 1221

University of London—Supply,

c. [141] 589

Unlawful Oaths (Ireland) Bill,

- c.* 1R.* [143] 398 ; 2R.* 525 ; 3R. 708
- l.* 1R.* [143] 710 ; 2R.* 1006 ; 3R.* 1176
- Royal Assent [143] 1491

Unseaworthy Vessels,

- l.* Petitions (Earl of Ellenborough), [140] 706

URQUHART, Mr. W. P., *Westmeath*

- Cambridge University, Com. [142] 837
- Chancery, Court of, (Ireland), (Incumbered Estates Court Abolition), 2R. [140] 921
- Dissenters, Interment of (Ireland), [142] 1993
- *Established Church (Ireland), Com. moved for, [142] 743
- Financial Statement—Ways and Means, [140] 1260
- Income and Property Tax, [141] 644
- Monetary System, Com. moved for, [140] 1499
- Tenant Right (Ireland), Com. [143] 535

Vaccination Bill,

- c.* 1R.* [140] 2036 ;
- 2R. [141] 23, 271 ;
- Question (Mr. T. Duncombe), [143] 402 ;
- Com. 549 ; Order discharged, 553

Vaccine Establishment, National—Supply,

c. [141] 1040

Valour, Order of,

- c.* Question (Capt. Scobell), [142] 2090

VANCE, Mr. J., *Dublin*

- Army Estimates, [141] 203
- Bankruptcy and Insolvency (Ireland), 2R. [142] 2157
- Budget, The—Financial Statement, Res. [142] 358
- Dublin Metropolitan Police, 2R. [142] 1215, 1217
- Education (Ireland), Res. Adj. moved, [142] 1883
- Fire Insurances, 2R. [141] 1380
- Hospitals (Dublin), Com. [143] 971 ; *cl.* 14, 973

VANOB, Mr. J.—continued.

- Joint-Stock Banks, Com. Amend. [143] 1062 ; 3R. Amend. 1119
- Judges and Chancellors, Com. [142] 2046
- Judgments Execution, Com. [143] 209 ; Adj. moved, 538
- Navy Estimates, [140] 586
- Partnership Amendment (No. 2), Com. *cl.* 3, [143] 366
- Police (Counties and Boroughs), Com. *cl.* 1, [141] 1582
- Session, Review of the, Returns moved for, [143] 1476
- Shipping, Local Charges on, Com. moved for, [141] 210 ; Appointment of Com. 685 ; Amend. 867
- Stamp Duties, Com. *cl.* 1, Amend. [143] 943
- Supply—Hospitals (Ireland), [141] 1043
- Tenant Right (Ireland), Com. [143] 534 ;
- Tralee and Killarney Savings Banks, Com. moved for, Amend. [142] 775

VANE, Lord H. G., *Durham* S.

- Coast-Guard Service, Com. *cl.* 5, [143] 1000
- Justices of the Peace Qualification, Com. *cl.* 7, [142] 476, 477 ;
- Medical Profession, Com. [141] 350
- Perth and Melfort's, Earl of, Compensation, Rep. [142] 1318

VANE-TEMPEST, Lord A. F., *Durham* N.

- Crimea, Return of Troops from the, [142] 1407, 1570

VANSITTART, Mr. G. H., *Berkshire*

- Budget, The—Financial Statement, Res. [142] 385
- County Courts Acts Amendment, Com. [143] 600
- Fire Insurances, 2R. [141] 1944, 1945 ; Com. Amend. [142] 395
- Justices of the Peace Qualification, 2R. [140] 1441 ; Com. *cl.* 7, [141] 1107 ; Amend. 1109
- Kars, Fall of, Res. [141] 1827
- Poor Law Amendment (No. 2), 2R. [142] 2043
- Supply—Royal Parks, Pleasure Grounds, &c. [141] 238 ;—Education, Public, 524 ;—Education (Ireland), Amend. 541, 542 ;—Mr. Boyle's Compensation, [142] 1142

Vauxhall and Battersea Bridge Embankment—Supply,

- c.* [142] 1036, [A. 109, N. 66, M. 43] 1038

VERNER, Sir W., *Armagh* Co.

- Maynooth College, 2R. [142] 1911, 1960

VERNON, Capt. L. V., *Chatham*

- Army Estimates, [140] 1742, 1758, 1766, 2076 ; [141] 189 ; [142] 1560, 1700, 1707
- Army Scientific Corps, [141] 1444, 1450
- Army, Staff of the, [141] 1394 ; Res. [142] 776, 1687
- Engineers in the Crimea, [143] 645
- Engineers, Promotion in the, [143] 271
- Harness, Colonel, Case of, [141] 277 ; Papers moved for, 658, 663
- Supply—Royal Palaces and Public Buildings, [141] 228

VERNON, Mr. G. E. H., *Newark*

Aldershot, Review at, [143] 1032
 Cambridge University, Rep. *cl.* 27, [142] 1745
 Dissenters' Marriages, Com. *cl.* 4, [142] 942
 Education, Vice President of Committee of Council on, 3R. [143] 1215
 Justices of Peace Qualification, Com. *cl.* 7, [141] 1113
 National Gallery, Site of the, Address moved, [142] 2132; [143] 556
 Police (Counties and Boroughs), Com. *cl.* 1, [141] 1581; *add. cl.* [142] 607, 612
 Supply—Royal Parks, Pleasure Grounds, &c. [141] 232;—National Gallery, 606, 619;—British Museum, 1865

Vestries, Metropolitan,

c. Question (Viscount Chelsea), [141] 41

VILLIERS, Rt. Hon. C. P. (Judge Advocate General), *Wolverhampton,*
 Crimean Commission Report, [143] 1115, 1273

Voters, Registration of (Scotland) Bill,

c. 1R.* [141] 2029;
 [142] 2R. 400;
 . Com. 1679; Amend. (M. G. Dundas), 1680, [o. q. A. 102, N. 49, M. 53] 1683;
 . *cl.* 1, 1683;
 . *cl.* 55, Amend. (Mr. E. Lockhart), [A. 59, N. 103, M. 44] 1684; 3R.* 1987
 1. 1R.* [142] 2048; 2R.* [143] 110; 3R.* 710
 Royal Assent, [143] 1064

WADDINGTON, Mr. D., *Harwich,*

Cab Proprietors, Liability of, [143] 320

WALCOTT, Rear Adm. J. E., *Christchurch*

Arctic Expeditions, [140] 451
 Baltic, Operations in the, Com. moved for, [141] 71, 76
 Napier, Sir C., at Acre, [141] 518
 Naval Administration, Com. moved for, [140] 418
 Naval Officers, [143] 516, 520
 Navy Estimates, [140] 543, 552, 589; [142] 1431
 Spithead, Naval Review at, [141] 1183, 1184
 Supply—British Embassy Houses Abroad, [143] 276
 "Tarmagant," The, [143] 402

WALMSLEY, Sir J., *Leicester*

Army Estimates, [140] 1741
 British Museum—Sunday Opening, [140] 1053, 1116
 Museums, &c., Opening of, on Sunday, [140] 220
 Police (Counties and Boroughs), 2R. [140] 693, 2158; Com. *cl.* 7, [141] 1932; Amend. 1934, 1935; *cl.* 6, [142] 297; Proviso, 306; *add. cl.* 611

WALPOLE, Rt. Hon. S. H., *Cambridge University,*

Abjuration, Oath of, Leave, [140] 1288; 2R. [141] 747
 Bands in the Parks on Sundays, [141] 1921

[cont.]

WALPOLE, Rt. Hon. S. H.—*cont.*

Budget, The—Financial Statement, Res. [142] 386
 Cambridge University, Com [142] 823; *cl.* 4, 843; *cl.* 6, 846; *cl.* 25, 848, 849; *cl.* 27, 1201, 1206; *cl.* 30, 1211; *cl.* 31, *ib.*; *cl.* 32, 1213; *cl.* 39, 1215; *cl.* 40, *ib.*; Rep. *add. cl.* 1742; *cl.* 27, Amend. 1743, 1749; *cl.* 44, 1753
 Charitable Uses, Com. *cl.* 2, [140] 973
 Church Estate Commissioners, [143] 1220
 Church Rates Abolition (No. 2), 2R. [140] 1927
 Civil Service Superannuation Fund, Com. [143] 1045
 Contractors' Disqualification Removal, 2R. [140] 1432
 Corrupt Practices Prevention, Com. [143] 990
 Dissenters' Marriages, 2R. [140] 1.30
 Ecclesiastical Commission, Com. moved for, [140] 976
 *Education (Ireland), Address moved, [142] 1580, 1685, 1686; Res. 1826
 Estimates, Appropriation of the, [141] 184
 German Legion, The, [143] 1108
 Joint-Stock Companies, Com. *cl.* 29, [142] 642; 3R. *cl.* 46, 898
 London and Durham, Bishops of, Retirement, 2R. [143] 1314, 1325, 1329, 1334
 Married Women's Reversionary Interest, Com. [141] 441, 442
 Medical Profession, Com. Amend. [141] 340, 349
 Militia, and the Foreign Legions, [142] 804
 Morning Sittings, [142] 1462
 National Gallery, Site of the, Address moved, [142] 2156
 Oxford University, Address moved, [140] 2030
 Parochial Schools (Scotland), Com. [142] 1464
 Peace, Treaty of, Address moved, [141] 2113, 2114
 Shipping, Local Charges on, Com. moved for, [141] 212
 Statute Law Commission, [141] 871, 872
 Supply—Royal Parks, Pleasure Grounds, &c. [141] 233;—Copyhold Inclosure, &c. 261;—Stationery, Printing, &c. 262, 264, 268;—Inspectors of Prisons, 270;—Board of Flaberies (Scotland), [142] 885
 Talbot v. Talbot, Case of, Papers moved for, [140] 1560
 Transportation, Com. [141] 869
 Trust Property, Criminal Appropriation of, Leave, [141] 433

WALSH, Sir J. B., *Radnorshire*

Italy, Affairs of, Address moved [143] 794
 Tenant Right (Ireland), Com. [143] 532
 United States, Relations with the, Adj. moved, [143] 107

WALTER, Mr. J., *Nottingham*

Bleaching, &c., Works, (No. 2) 2R. [143] 222
 Medical Profession, Com. [141] 338
 Poor Law Amendment (No. 2) 2R. [143] 263

War Office, The New,

c. Question (Mr. H. Baillie), [141] 466

WARNER, Mr. E., Norwich

Death, Punishment of, Com. moved for [142] 1260

Decimal Coinage, [140] 833

Estates, Leases and Sales of Settled, Com. *add. cl.* [143] 1052

Joint-Stock Companies, Com. *cl.* 29, Amend. [142] 640

Kars, Fall of, Res. [141] 1774

Police Counties and Boroughs, 2R. [140] 2184

Supply — Falkland Islands, [141] 1009; — Emigration, 1012

WARREN, Mr. S., Midhurst

Abjuration, Oath of, 3R. [142] 1188

Education, National, Com. [141] 812

Somner, Celestina, Case of, [142] 428

WATSON, Mr. W. H., Kingston-upon-Hull

Hinda, Miss, Murder of, [142] 286

Judges and Chancellors, Leave, [142] 464

Justices of the Peace Qualification, Com. *cl.* 14, [142] 480

Mercantile Law Amendment, 2R. Adj. moved, [142] 2045

Partnership Amendment, 2R. [140] 474

Police (Counties and Boroughs), Com. *cl.* 7, [141] 1935

Shipping, Local Charges on, Appointment of Com. [141] 680

Shipping, Local Dues on, Leave [140] 177

Statutes at Large, [140] 996

Supply—Statute Law Commission, [142] 872

Williams, Sir W. F., Queen's Message, Address moved [142] 298

Wills and Administrations, 2R. [142] 2041

Ways and Means—Financial Statement,

c. Com. [140] 1228, 1768; [143] 380;

Observations (Sir H. Willoughby), [143] 404

Wellington Monument, The,

c. Question (Viscount Chelsea), [141] 1289; [142] 797; Explanation (Sir B. Hall) [141] 1325

WELLS, Mr. W., Beverley

National Gallery, The, [141] 1528

Wensleydale Peerage,

l. Motion (Lord Lyndhurst), [140] 263, [Content 138, Not Content 105, M. 33] 380;

[140] Question (Earl Grey), 449;

c. Com. moved for (Lord Lyndhurst), 508;

c. Com. 591, 898, 977, 1022, 1152; Amend. (Earl Grey), 1179 [*c. q.* Content 92, Not Content 57, M. 35] 1216;

c. Protests, 1218, 1309, 1310;

c. Report, 1289;

c. Motion (Lord Glenelg), 1121, [Content 111, Not Content 142, M. 31] 1149

West India Islands Relief Commission—Supply,

c. [141] 262

West India Loans Bills,

c. 1R.* [141] 1908; 2R.* [142] 16; 3R. 1388

l. 1R.* [142] 1395; 2R.* 1667; 3R.* 1890
Royal Assent, [143] 1

West Indies Geological Survey,

c. Question (Mr. J. C. Ewart), [143] 508

West Indies, Governors, &c.—Supply.

c. Amend. (Mr. W. Williams), [141] 1003, [A. 3, N. 269, M. 265] 1009

West Indies, Postal Communication with,

c. Question (Mr. Lindsay), [140] 716

West Indies, Troops in the.

c. Question (Mr. Scholefield), [143] 320

WESTMEATH, Marquess of

Dwellings for Labouring Classes (Ireland), 3R. [143] 543; Amend. 544, 545

Westminster Bridge,

c. Question (Mr. Henley), [142] 329; (Mr. W. Williams), 550

Westminster, New Palace at—Decay of Stonework,

l. Petition (Lord Lyndhurst), [143] 1419

WHITBREAD, Mr. S., Bedford

Aggravated Assaults, 2R. [142] 173

WHITESIDE, Mr. J., Enniskillen

Appellate Jurisdiction, [143] 429

Cambridge University, Com. *cl.* 27, [142] 1203

Chancery, Court of, (Ireland), (Incumbered Estates Court Abolition), Leave, [140] 196; 2R. 927; Appointment of Com. 1427, 1428, 1429

Chancery, Court of Appeal in (Ireland), Com. *cl.* 3, [143] 506; 3R. 944

Chancery, Court of (Ireland) Receivers, Com. *cl.* 1, [143] 505

Chancery, Courts of (Ireland), Leave, [140] 183

County Courts Acts Amendment, Com. *cl.* 72, (D), [143] 701

Dublin Metropolitan Police, 2R. [142] 1217

Dwellings for Labouring Classes (Ireland), 2R. [140] 1857

Estates, Leases and Sales of Settled, 2R. [143] 946

Grand Jury Assessment (Ireland), Com. *add. cl.* [142] 619

Hinda, Miss, Murder of, [142] 284

Incumbered Estates (Ireland), 2R. [143] 374; Com. *add. cl.* 488, 489, 490; 3R. *add. cl.* 615, 617

Italy, Affairs of, Address moved, [143] 789

Joint-Stock Companies, Leave, [140] 144; 3R. *cl.* 46, [142] 898

Joint-Stock Companies, Winding-up Acts Amendment, 2R. [142] 667; Com. Amend. [143] 1005

Judgments Execution, Com. [143] 537, 538; Amend. 1002

Juries (Ireland), 2R. [140] 971

Kars, Fall of, [140] 1051; Res. [141] 1594, 1897

Married Women, Rights of, [142] 1281

Medical Profession, Com. [141] 761

Ministers' Money (Ireland), 2R. [141] 1130

Offences, Trial of, 2R. [140] 1768, 1770; Com. *cl.* 1, 2194, 2198, 2200

WHITESIDE, Mr. J.—continued.

Partnership Amendment, Leave, [140] 144
 Peace, Treaty of, Address moved, [142] 89
 Postage Labels, Com. moved for, [142] 1284, 1296
 Rolls, Master of the, and the Attorney General for Ireland, [143] 670, 708
 Sadleir, James, and the Tipperary Bank, [143] 381
 Supply — Superannuation Allowances, [141] 1034;—Battersea Park, [142] 1035;—Embassy Houses Abroad, Amend. 1038, 1011;—Incumbered Estates Commission (Ireland), 1046, 1048, 1049, 1050
 Talbot v. Talbot, Case of, Papers moved for, [140] 1551
 Williams, Sir W. F., Annuity, 2R. [142] 666

Whitsunday Recess,

c. Question (Sir J. Trollope), [141] 2033, 2035

WICKLOW, Earl of

Abjuration, Oath of, Amendment, 2R. [142] 1898
 Appellate Jurisdiction, Com. [142] 912; Rep. 951
 Dwellings for Labouring Classes (Ireland), 3R. [143] 545, 546
 London and Durham, Bishops of, Retirement, 3R. [143] 1096
 Mail Service, Irish, [141] 1592
 Parishes, Formation of, Com. cl. 9, [143] 1092
 Peace Preservation (Ireland), Com. [142] 778

Widows of Officers of Transports,

c. Question (Mr. Stafford), [142] 1579

WIGRAM, Mr. L. T., Cambridge University

Abjuration, Oath of, Com. cl. 2, [142] 605
 Appellate Jurisdiction, Com. [143] 594
 Bands in the Parks on Sundays, [141] 1916
 British Museum—Sunday Opening, [140] 1113
 Cambridge University, Leave, [141] 219; Com. [142] 843; cl. 4, 844; cl. 20, Amend. 846; cl. 25, Amend. 847, 848; cl. 27, Amend. 1198, 1207; cl. 29, Amend. 1209; cl. 31, 1212; cl. 40, 1215; Rep. add. cl. 1740; cl. 27, 1748; Amend. 1749; cl. 44, Amend. 1750; 3R. add. cl. 2044
 Cambridge University and Town, 2R. [140] 832
 Charitable Uses, 3R. Amend. [140] 1425
 Charities, Com. cl. 1, (143) 1060
 Church Rates Abolition (No. 1), Leave, [140] 256
 Estates, Leases and Sales of Settled, Com. add. cl. [143] 1052, 1054
 Judges and Chancellors; Leave, [142] 464
 Laws, Amendment of the, Res. [140] 646
 London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1383
 Nawab of Surat Treaty, Rep. [142] 1313, 1658
 Oxford University, Address moved, [140] 2031
 Suffragan Bishops, [142] 593
 Supply—West Indies (Governors, &c.), [141] 1005
 Tithe Commutation Rent-charge, 2R. [142] 164

WILKINSON, Mr. W. A., Lambeth

Bleaching, &c., Works (No. 2), [143] 223
 Crimean Commission Report, [140] 1658
 Drafts on Bankers, 2R. [141] 441
 Dwellings for Labouring Classes (Ireland), Com. [141] 1792
 Financial Statement—Ways and Means, [140] 1246
 Fire Insurances, Com. moved for, [141] 334; 2R. Amend., 1874, 1945; Com. [142] 368; cl. 2, 396
 Laws, Amendment of the, Res. [140] 660
 London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1409
 Masters and Operatives, Com. moved for, [140] 986
 Maynooth College, Com. [141] 1076
 Members' Speeches, [143] 1226, 1233
 Metropolis Local Management Act Amendment, [141] 473
 Metropolis Local Management Act Amendment, (No. 2), Lords' Amends. [143] 1418
 Monetary System, Com. moved for, [140] 1605
 Partnership Amendment, (No. 2), Com. [143] 338; cl. 3, 368; 3R. cl. 3, 801
 Poor Law Amendment (No. 2), 2R. [142] 2048
 Session, Review of the, Returns moved for, [143] 1476
 Standing Orders, Res. [143] 1105

WILLIAMS, Mr. W., Lambeth

Aggravated Assaults, Leave, [141] 28
 Aldershot, Review at, [143] 864
 Army Estimates, [140] 1262, 1286, 1287, 1732, 1733, 1754, 1756, 1757, 1766, 1767, 2054, 2056, 2057, 2061, 2064, 2077; [142] 1533, 1692, 1700, 1715
 Audit of Public Accounts, [141] 702
 Belgium, Mission to, [143] 1386
 Budget, The—Financial Statement, Res. [142] 357, 386
 Business of the House, [140] 252
 Chancery, Courts of (Ireland), Leave, [140] 184
 Church Building Commission, 3R. [143] 337
 Consolidated Fund Appropriation, Com. [143] 558; cl. 30, Amend. 562, 567; cl. 36, ib.
 Corrupt Practices Prevention, Com. [143] 989
 County Courts Acts Amendment, Com. cl. 5, [143] 694; cl. 72 (D), 701
 Crown Lands and Church Extension, [143] 267
 Drainage Advances Acts Amendment, Com. [140] 1015, 1016
 Episcopal and Capitular Estates, Leave, [140] 182
 Financial Statement—Ways and Means, [140] 1244
 Hospitals (Dublin), Com. [143] 970
 Income and Expenditure, Returns moved for, [140] 225, 229
 Income and Land Taxes, Com. cl. 2, [143] 941
 Income and Property Tax, [141] 655
 London Corporation, Leave, [141] 332
 Metropolis Local Management Act Amendment, [141] 470
 Metropolis Local Management Act Amendment (No. 2), Lords' Amends. [143] 1416, 1417
 Militia, The, [140] 2053
 Moneys, Public, Com. moved for, [141] 1463
 [cont.]

WILLIAMS, Mr. W.—continued.

- Munitions of War, Export of, [141] 703
 Navy Estimates, [140] 525, 586, 587, 588 ;
 [142] 1430, 1461
 New Zealand, Salary of the Bishop of, [143] 328
 Partnership Amendment (No. 2), Com. cl. 3, [143] 367, 370
 Pauper, Scotch and Irish, Removal, Leave, [141] 312, 2R. [142] 2157
 Pensions, Hereditary, [141] 1238, 1343
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1317
 Police (Counties and Boroughs), Com. cl. 10, [141] 1989 ; cl. 11, 1943 ; cl. 6, [142] 297 ; add. cl. 607
 Superannuations and Pensions, [140] 972
 Supply—
 140] Civil Service Estimates, 854, 856 ;—Customs Department, 859, 862 ;—Inland Revenue Department, 864 ;—Post Office Services, 869, 1671, 1672 ;
 141] Royal Palaces and Public Buildings, 221, 223, 225 ;—Royal Parks, Pleasure Grounds, &c., 232 ;—New Houses of Parliament, 240, 243 ;—Holyhead Harbour, &c., 248 ;—Public Buildings (Ireland), 248 ;—Remembrancer, of Exchequer (Scotland), 253 ;—Lord Lieutenant of Ireland ;—Public Works (Ireland), 254 ;—Audit of Public Accounts, 256, 257, 260 ;—Education (Ireland), 525, 527, 541, 542 ;—Queen's University (Ireland), 590, 591 ;—British Museum, 601, 1365 ;—North American Provinces, 1001, 1002 ;—India Department, Canada, *ib.* ;—West Indies (Governors, &c.), Amend. 1003, 1004 ;—Stipendiary Magistrates, 1009 ;—Emigration, 1012 ;—Consular Establishments, 1027 ;—Embassies, &c., 1031 ;—Superannuation Allowances, 1032, 1033, 1037, 1040 ;—Infirmaries (Ireland), 1042 ;—Hospitals (Ireland), 1043 ;—General Board of Health, 1363, 1373 ;
 142] Ecclesiastical Commissioners, 856 ;—Charity Commission, Amend. 857, 861 ;—Patent Law Amendment, 881 ;—Board of Fisheries (Scotland), 881, 882, 883, 885 ;—Treaties of Reciprocity, 1028 ;—Revising Barristers ;—Constabulary Police at Aldershot, 1030, 1032 ;—Battersea Park, 1035, 1036 ;—Cape of Good Hope, 1108 ;—British Historical Portrait Gallery, 1116 ;—Science and Art Department, Marlborough House Removal, 1125 ;—Civil Contingencies, 1333, 1334 ;—St. James's Park, 1417 ;
 143] British Embassy Houses Abroad, 276 ;—Disembodied Militia, 294
 Ways and Means, [140] 1768 ; [143] 405
 Westminster Bridge, [142] 550

Williams, Sir W. F.

- l. Message from the Queen, [142] 178 ; Address moved (Earl Granville), 238
 c. Message from the Queen, [142] 215 ; Address moved (Visct. Palmerston), 287 ; Report, 399

Williams, Sir W. F., Annuity Bill,

- c. 1R.* [142] 550 ;
 2R. 668 ; 3R.* 851
 l. 1R.* [142] 899 ; 2R.* 1471 ;
 3R. 1676
 Royal Assent, [142] 1771

WILLOUGHBY, Sir H. P., Evesham

- Address in Answer to the Speech, [140] 87
 Aldershot, Review at, [143] 866
 Budget, The—Financial Statement, Res. [142] 382
 Charities, 2R. [143] 967
 Coast-Guard Service, 3R. [143] 1030
 Commons, House of, Offices, 2R. [140] 447
 Consolidated Fund Appropriation, Com. [143] 558 ; cl. 8, 561 ; cl. 30, 564
 County Courts Acts Amendment, Com. [143] 691
 Estimates, Appropriation of the, [141] 184
 Financial Statement—Ways and Means, [140] 1242, 1244
 Income and Expenditure, Returns moved for, [140] 223
 Income and Land Taxes, 3R. [143] 1028
 Income and Property Tax, [141] 657
 London and Durham, Bishops of, Retirement, Com. cl. 3, [143] 1408
 Metropolitan Management, [140] 2039
 Militia, Rewards to the, [143] 336
 Moneys, Public, Com. moved for, [141] 14, 65
 Navy Estimates, [140] 524, 555 ; [142] 1459, 1460
 Nawab of Surat Treaty, Rep. [142] 1650 ; 3R. 1905
 Peace, Treaty of, [141] 1800
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1316
 Police, (Counties and Boroughs), 2R. [140] 695 ; Com. cl. 6, Amend. [142] 298, 302
 Police, Metropolitan, 2R. [140] 262
 Public Works, Com. [141] 624 ; cl. 2, 625, 626
 Sadleir, James, Expulsion of, [143] 1406
 St. James's Park, [141] 1187
 Standing Orders, Res. [143] 1104
 Supply, Rep. [140] 263, 1313 ;—Civil Service Estimates, 857 ;—
 141] Royal Palaces and Public Buildings, 224, 225 ;—Royal Parks, Pleasure Grounds, &c. Amend. 229 ;—New Houses of Parliament, 239 ;—General Board of Health, 1369, 1372 ;—
 142] Charity Commission, 861 ;—Statute Law Commission, 874 ;—Science and Art Department, Marlborough House, Removal, 1132 ;—Mr. Boyle's Compensation, 1142 ;—Civil Contingencies, 1335
 Tithe Commutation Rent Charge, 2R. [142] 164
 Ways and Means, [143] 404, 406

Wills and Administrations Bill,

- c. Leave, [141] 219 ; 1R.* 220 ;
 Question (Mr. R. Phillimore), [141] 1529 ;
 2R. [142] 1995 ;
 Question (Mr. Malins), [143] 266 ;
 Com. 296 ; Amend. (Mr. Henley), 299

WILSON, Mr. J. (Secretary to the Treasury.) Westbury

- Army Estimates, [140] 2064
 Australia, Steam Postal Communication with, [141] 278, 279, 1179, 1181 ; [142] 552, 1230, 1496, 1685, 1988, 1990 ; [143] 1425, 1426
 Burlington House, [140] 151
 Cape of Good Hope—Postal Communication, [143] 1220
 Chinese War, Expenses of, [141] 658

[cont.]

Wilson, Mr. J.—*continued.*

- Coast Guard, The, [142] 258
 Commons, House of, Offices, Leave, [140] 258
 Communication between England and Ireland, [140] 221
 Consolidated Fund Appropriation, Com. [143] 559, 561
 County Court Judges, Salaries of, Address moved [141] 295
 County Courts Acts Amendment, Com. *cl.* 72 (E) [143] 707, 708; Rep. *cl.* 9, 995; *cl.* 82, 997; 3R. *cl.* 10, 1207, 1209
 Crown Lands, and Church Extension, [143] 264
 Custom-House Bonds—The Peace, [141] 564; —Regulations, 875
 Custom-House Officers, Salaries to, [140] 2112
 Drafts on Bankers, Leave, [140] 214; 2R. [141] 120
 Drainage Advance Act Amendment, 2R. [140] 972; Com, 1016
 Dublin, Postal Communication with, [142] 552
 Education (Ireland), Papers moved for, [141] 435
 Episcopal Church (Scotland) [143] 740; —Biennial Grant to, 977
 Estimates, Appropriation of the, [141] 182
 Finance Accounts, Annual [143] 1220
 Fire Insurances, 2R. [141] 1379
 Hospitals (Dublin), Com. [143] 972
 Imperial Hotel Company, 2R. [140] 1700, 1702
 Income and Expenditure, Returns moved for, [140] 227
 Joint-Stock Banks (Scotland,) Com. [140] 698
 Lands Improvement, Commissioners of, [143] 338
 Leaving- and Dolly-Shops, Suppression of, [141] 1702, 2031
 Life Insurance Companies, [140] 1952
 Liverpool, Customs Establishment at, [140] 1951; [141] 887, 888
 Militia, The, [140] 2053
 National Gallery, 150; Com. *cl.* 1, [141] 1946
 Pensions, [143] 1424, 1425
 Pensions, Hereditary, [141] 1237, 1343
 Perth and Melfort's, Earl of, Compensation, Rep. [142] 1319
 Postage Labels, Com. moved for, [142] 1290, 1296
 Postal Communication with Dublin, [141] 1530; with Bandon, 2030
 Postal Service (Ireland), [140] 384, 1219; [142] 17
 Printing Expenses—Returns, [141] 386
 Public Works, Com. [141] 624; *cl.* 2, 625, 626; *cl.* 3, 626
 Shipping, Local Charges on, Appointment of Com. [141] 867
 Smith, Dr. Southwood, [142] 595
 Spain, Postal Treaty with, [140] 2111
 Statute Law Consolidation, Address moved, [141] 1467
 Superannuations and Pensions, [140] 972
 Supply—
 140] Rep. 263; —Civil Service Estimates, 856; —
 . Customs Department, 859, 861; —Coast-
 . Guard, 862, 863; —Inland Revenue Depart-
 . ment, 864; —Post-Office Services, 865, 868,
 . 869, 870, 1671, 1672;
 141] Royal Palaces and Public Buildings, 225,
 . 226; —Houses of Parliament, 240, 241, 244,
 . 246, 250, 251; —Public Buildings (Ireland),

[cont.]

Wilson, Mr. J.—*continued.*

- Supply *cont.*—
 141] 249; —Foreign Office; Works and Public
 . Buildings, 251; —Mint, 252; —Remem-
 . brancer of Exchequer (Scotland), 253; —Audit
 . of Public Accounts, 256, 258, 260; —Copy-
 . hold Inclosure, 261; —Stationery, Printing,
 . &c., 265, 268; —Education Public, 523, 524;
 . — Education (Ireland), 535; —Theological
 . Professors, (Belfast), 598, 600; —British Mu-
 . seum, 601; —National Gallery, 612, 617; —
 . Consular Establishments, 1027; —Embassies,
 . &c., 1030; —Superannuation Allowances,
 . 1032, 1033, 1034, 1037, 1038, 1039; —Tou-
 . lonese, &c., Emigrants, 1040; —Polish, &c.,
 . Refugees; —Infirmaries (Ireland), 1042; —
 . General Board of Health, 1369, 1370, 1371,
 . 1373;
 142] Charity Commission, 860, 862, 863; —Tem-
 . porary Commissions, 880; —Patent Law
 . Amendment, 881; —Board of Fisheries (Scot-
 . land), *ib.* 883, 884, 885; —Board of Manufac-
 . tures (Scotland), 1027; —Treaties of Recipro-
 . city; —Inspectors of Corn Returns, 1028; —
 . Constabulary Police at Aldershot, 1031,
 . 1032; —Inspectors of Burial-Grounds, 1034;
 . —Australian Expedition, 1050; —Treasury
 . Commissariat Chest Transactions, 1108; —
 . Agricultural Statistics, 1110; —Science and
 . Art Department, Marlborough-House Re-
 . moval, 1124, 1128, 1130, 1132; —Mr. Boyle's
 . Compensation, 1142; —Civil Contingencies,
 . 1329, 1331, 1333, 1336, 1337, 1339, 1341
 Ways and Means, [140] 1768; [143] 380
 West India Loans, 3R. [142] 1389

Winchilsea, Earl of

Peerages for Life, [140] 1140

Windsor Improvements—Supply,

c. [142] 1038

Wine Duties,

c. Com. moved for (Mr. Oliveira), [143] 903;
 Motion withdrawn, 934Wise, Mr. J. A., *Stafford*

Hanover, Diplomatic Establishment at, [142] 1494

Harness, Colonel, Case of, Papers moved for, [141] 668

Offences, Trial of, 2R. [140] 1769

Police (Counties and Boroughs), Com. *cl.* 7, [141] 1934

Supply—

141] Royal Palaces and Public Buildings, 224,
 . 227; —New Houses of Parliament, 246; —
 . Public Buildings (Ireland), 249; —Works
 . and Public Buildings, 251, 252; —Remem-
 . brancer of Exchequer (Scotland), 253; —
 . Consular Establishments, 1014, 1028, Em-
 . bassies, &c. 1030; —

142] Inspectors of Corn Returns, 1028; —

143] Embassy Houses Abroad, 1039, 272; —
 . Civil Contingencies, 1334; —British Protes-
 . tant Cemetery, Madrid, 276

Ticket-of-Leave Men, [140] 150

Turkish Tariff, The, [141] 2034

Wodehouse, Lord, (Under Secretary for Foreign Affairs)

Agricultural Statistics, 3R. [141] 631

Kars, Fall of, [141] 29, 32